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¶ *This magazine is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.*

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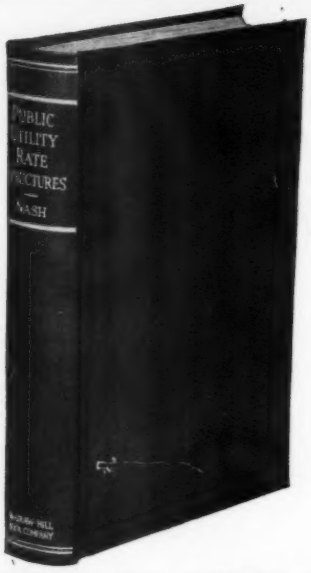

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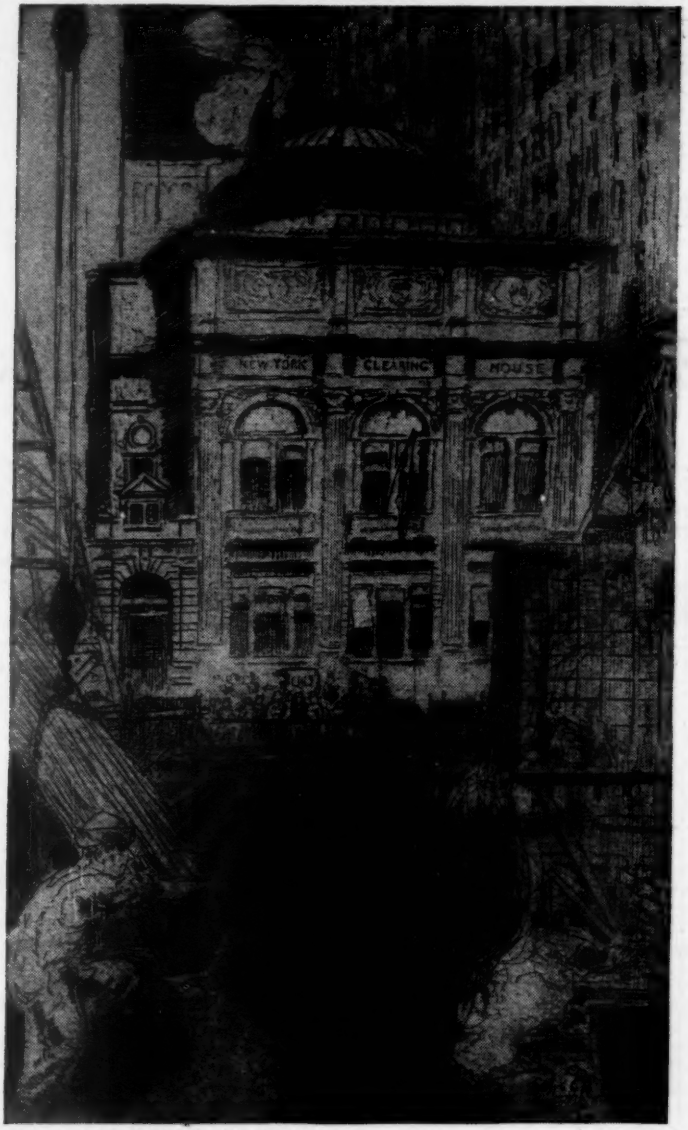
Public Utilities Almanack

JULY

20	T^h	The Bell Telephone Company of New York was organized, 1878. Railroad employees in the east began a strike that paralyzed traffic, 1877.
21	F	The famous locomotive *"John Bull"* arrived in the U. S. from England, 1831. A wood-burning locomotive hauled the first suburban train in U. S., Chicago, 1856.
22	S^a	PACINNOTI invented the reversible continuous current dynamo, 1861. Transatlantic traffic began when the *"Mayflower"* left England for Plymouth, 1620.
23	S	First pneumatic tires for motor cars were made by DR. J. B. DUNLOP in Ireland, 1888. The steamship *"Bremen"* made a transatlantic record of 4 days, 17 hours, 1929.
24	M	The first railroad roundhouse and turn-table was completed, Chicago, 1851. The telegraph was first used for directing the movements of trains, 1851.
25	T^u	The first cab service in New York was established by JOHN CLAPP, innkeeper, 1696. The Edison Industrial Works was incorporated in N. J., capitalized at $10,000,000, 1890.
26	W	BENTLEY and KNIGHT operated the first electric passenger car in Cleveland, 1884. First wireless communication was established between U. S. and Japan, 1915.
27	T^h	JOHN FITCH made a successful trial of his steamboat on the Delaware River, 1786. The first permanently successful transatlantic cable was completed, 1866.
28	F	The first official U. S. mail car was put into regular service, 1862. Emperor CLAUDIUS of Rome completed the Appian Way aqueduct, 312 B. C.
29	S^a	Air mail service was inaugurated between New York and San Francisco, 1920. The *"R-100,"* dirigible, landed 44 passengers in Montreal, from England, 1930.
30	S	Locomotive *"De Witt Clinton"* was tried out on tracks of Mohawk & Hudson, 1831. WILLIAM GRAY invented the present-day nickle-in-the-slot telephone, 1887.
31	M	PETER COOPER HEWITT invented the mercury arc lamp, 1901. Baltimore tested relative merits of steam, horses, and sails for passenger cars, 1828.

AUGUST

1	T^u	HOLLIDAY demonstrated first cable-drawn street car in U. S., San Francisco, 1873. ARTHUR KORN experimented successfully with radio-transmitted pictures, 1907.
2	W	First electric street car in N. Y. made its historic journey up 4th Avenue, 1887. First news item was transmitted by radio from England to U. S., 1907.



From an etching by Frank A. Nankivell

The Market Place

"To maintain progress and insure prosperity, every modern nation must provide a central market place for its public securities."

—NAPOLEON

Public Utilities
FORTNIGHTLY

VOL. XII; No. 2 JULY 20, 1933

HAS THE TIME COME FOR

A Public Utility "Czar?"

The causes of the current agitation for more and stricter regulation, the problem that now confronts the utility industry as a whole, and one of the ways in which the situation may be met.

BY F. J. LISMAN

A FEW years ago the professional baseball business found itself confronted with a critical situation which demanded, for purposes of self-preservation, a single coördinating authority to guide its destinies. It found the solution of its problems in a virtual dictator who was popularly designated as a "Czar."

Shortly afterward the motion picture industry, similarly involved in complications which threatened its interests, took like recourse. Since then the precedent has been successfully followed by other industries. "Czars" have sprung up in the textile field; the large producers of oil are praying for one. Even as these lines are written, the railroad industry is facing the prospect of dictatorship—an office which was urged by the writer nearly three years ago as the only solution of the railroads' problems.

Today, disrupting forces, both political and economic, are closing in upon the public utility industry; particularly upon the electric utility industry.

Has the hour come for the appointment of a public utility Czar?

Let us look at the utility situation frankly as it exists today, and consider the conditions which have created it.

THE period of America's industrial history which culminated in 1929 will be looked upon in years to come as something akin to the Mississippi Bubble of two hundred years ago and the tulip bulb craze of some three hundred and twenty-five years ago.

The expectation of continuous growth and credit expansion with unlimited hopes for making money is not likely to reoccur within the lifetime of anyone now living; perhaps not for a couple of centuries. Therefore, the tremendous efforts now being made to prevent a recurrence of the causes and evils concomitant with the 1929 period appear to be a waste of time and effort—an effort which might be advantageously employed in concentration on the urgent problems of the era immediately ahead.

Time, conditions, and problems change; human nature does not. The bulk of individuals which composes any nation is motivated by desire for money and power; also, to a large extent by resentment against those who have acquired special privileges and especially against those who have done so by inheritance. This urge takes many different forms; chief among them is legislation for taxing large corporations in general—and public utility corporations in particular.

THE public utility industry suffered particularly from the expectation of unlimited profits because it had had a remarkably rapid and uninterrupted growth during the first three decades of this century, while its decline in income during the last three years has been less than that of any other type of industrial enterprise.

The 8 per cent decline in gross revenue for electric energy is trifling compared with the 50 per cent decline in gross earnings of the steam railroads, the 75 per cent decline in the production of steel, and the 90 per cent decline in the amount spent for construction of buildings. The reason may be found largely in the fact that utility rates did not participate in the earnings' rise during the period of inflation. This comparatively strong showing indicates a dependable further growth of the utilities when the tide of business turns.

The consumption of gas and electricity for industrial purposes has, of course, declined almost proportionately with the reduction in industrial enterprises. The reduction in domestic consumption has been comparatively light, because while people are more careful in the consumption of gas and electricity, they do continue to expand their use for such purposes as the operation of mechanical household and other devices.

THE public utility industry is now undergoing a bitter period of readjustment, as is every other line of business. Most of those former business practices which have been revealed as unsound are now properly appraised and are being corrected. The process is painful. It means receiverships, mortgage foreclosures with consequent wiping out of what were believed to be real equities, and the cancellation of contracts. As usual, the public is impatient during the process. It has incurred huge losses on its investments. It does not understand nor admit that it, itself, is largely responsible, on account of its own greed and thoughtlessness in

buying securities without proper examination; it puts all the blame on the "other fellow."

The utility industry's stability of earnings is due largely to the fact that it depends to a comparatively insignificant extent on the production of capital goods; it should be classed with the producers of consumer goods, such as food and clothing. While the decrease in consumers goods has been small compared with that of capital goods, it has, nevertheless, been substantial.

As a rule, the public does not find utility rates excessive because these rates hardly ever absorb a large proportion of even a moderate income. But when political office-seekers tell the people that they have been paying too much for utility services, they find willing listeners.

The public utility companies, as such, have no votes. Their stockholders, as such, are not vote conscious and do not visualize the fact that as a group they could influence the elections in their home localities or of the officials of their respective corporations. For this reason some politicians find agitation for public utility regulation to be a dependable lever for prying themselves into public office. They will continue to use it as such even for a period after it has ceased to be effective for that purpose—as, for example, they did with prohibition.

MANY holders of public utility securities who, prompted by their own desire for profit or by high-pressure security salesmen, purchased their bonds or stocks at high prices, are among those who are not most vociferous for stricter regulation of all kinds.

How far will utility regulation go in interfering with the legitimate interests of the public, of the proper development of the industry, and of the legitimate interest of its stockholders?

It is certain to go a long way, especially if the officials of the public utilities combat regulation instead of coöperating for the purpose of directing it toward an intelligent and constructive end.

THE problems incidental to public utility regulation have become particularly complex because the status of the corporations, with their immense expansion, has greatly shifted. Formerly they involved merely the relations between the corporation and its customers. Now they involve also the vast army of utility security owners as well.

At present, the individual stockholder of a public service corporation (or any other large corporation) has, in effect, little more to say about the selection of its officers or policy of the management than he has as a

¶ "EVENTS *are moving rapidly in the public utility realm; they are fast overtaking the conservatives and the well-intentioned but slow cogitator. The hour is striking for a bold, constructive, and forward-looking move. Will the industry take it? Will it appoint a Czar?"*

voter of any large city, state, or the United States at large. Stockholders in corporations are rarely organized except when somebody herds them up for a special purpose, as is more or less the case with political parties.

This problem of differentiation of interest between the active management or office holders, on one hand, and the passive stockholders, on the other, is now looming larger and larger. To handle this situation requires clear thinking.

It would be unfortunate if the friction engendered by frequent election contests should develop within large stock companies; such activities would greatly diminish the efficiency of both officials and employees. It would be hurtful to the companies' business and public relations. As a rule, such contests occur only when the profits of a company show up badly. However, if any group of stockholders should suspect that all is not as it should be, proxy contests are to be expected.[1]

THE American public has been educated by the politicians to a prejudice against the making of money by public utilities. This has resulted in driving the natural and legitimate human motive of self-interest into underground channels instead of keeping it out in the open under public scrutiny. Frank and full publicity, made obligatory either by voluntary action or by legal compulsion, is the best preventive of action by the management of a corporation that is either improper or subject to misinterpretation.

THE public utility industry has exceptional advantages in its monopolistic privileges—in spite of the fact that they have become more nominal than real in many cases. Electric light and power companies in different communities generally have similar problems to meet, but they rarely are and should not be competitive. Happily, the competition between public utilities which was so prevalent up to the beginning of the present century is now largely a forgotten form of waste. No city is again likely to submit to the annoyance of having its streets torn up for the purpose of duplicating electric light, gas, or tele-

[1] In Great Britain, many of these apparently unsolvable problems have been solved in a simple way, by following the lines of least resistence—by adjusting the legislation in accordance with human nature instead of contrary to it. In Great Britain, a public utility company receives a monopoly within a certain territory. It is allowed to earn a fair return of 8 per cent on the money actually and honestly invested; whenever the rates to consumers are reduced, the profits going to the security holders are allowed to be increased in a certain proportion. There is, thus, an inducement to good management to pass on the benefits to the consumer because it itself profits by it.

In Great Britain the regulatory authorities do not purport to deal with the ever-varying factor of the "cost of reproduction" which, during a period of declining prices, is supposed to favor the public, while during a period of advancing prices, favors the company; they deal with facts as they are. Neither do they purport to set up a theory of "prudent investment," because they have come to the realization that prudence is a quality which can be appraised only by the clear, cold light of hindsight. Judged by this light, very few acts in this world are performed 90 per cent or even 75 per cent prudently.

In Europe, the matter of compensation of the management has also been pretty well settled along the line of human nature. Directors are not supposed to give their time for a nominal consideration; they receive instead a certain percentage of the profits, which is a real inducement for them to give their corporation the benefit of their knowledge and experience. In many cases the managing officers receive a percentage of the profits, independent of the distribution among directors.

A One-man Rule Is Preferable to "the Product of the Mass Mind"

"JOINT action usually results in either weak compromise or in failure to agree, with the disastrous results which are the logical sequence of what might correctly be called 'disjointed action.' The theory that to combine a large number of superior persons, in order to get a super high-class result, does not work because it does not accord with human nature."

phone service, with the accompanying burden of earning interest on unnecessary capital investment.

THE holding company, which has often been a vehicle for misdeeds, is not necessarily undesirable; if honestly conducted, it is very beneficial, in so far as it can give many smaller units the benefit of high-class, experienced, scientific, and economical management and can finance these smaller units or subsidiaries to very much better advantage than they could do themselves. But in the present more or less impassioned campaign against holding companies, there is an inclination to "throw out the child with the dirty bath water," as the German proverb says.

True, in order to sustain the capital structure of certain unsound holding companies, unduly high rates have at times been charged. In consequence the consumer (who is frequently a former customer-owner) now wants the company to be "soaked."

The state commissions insist that the companies only charge consumers a rate adequate to pay a fair return on the money invested; they also want to make sure that the sins of the past—such as the syphoning of earnings of operating companies into holding company treasuries—shall not be repeated. In other words, they want to regulate the charges as well as all other activities of the public utilities. These regulations have become a heavy burden on the industry; they may become so intolerable as to make it difficult to obtain capital for legitimate expansion. In the end, the public will be served less capably by too much regulation than it formerly was by too little. The problem, therefore, is to maintain a proper equilibrium. And this is difficult to achieve by mere legislation.

Many voters are now asserting that they want the public utilities to be regulated more strictly. It is no longer a theoretical question whether regulation is desirable; stricter regulation is inevitable. Many of the regulatory laws have already become more conspicuous by the size of their teeth than by their wisdom.

In view of this condition, the real problem confronting the leaders of the industry is not to combat all regulation but rather to coöperate in guid-

ing this regulation intelligently for the purpose of establishing it as a constructive force so far as possible.

How can the electric industry meet the situation which now confronts it?

Suppose the public utility corporations (represented, for example, by the Edison Electric Institute) should call a conference for the purpose of concerted, constructive action in guiding regulation along sound, constructive channels.

Suppose that each company had one vote for, say, every block of customers up to 250,000 and one additional vote for each additional unit of that number. Suppose these representatives selected a committee not exceeding five in number, whose sole function would be to select a representative or Czar to cope with Federal legislation and to direct plans for self-regulation. Suppose that representative had broad powers for that purpose; he need not be one of the five members of the committee.

It would be a mistake, in my opinion, to let the committee of five (or even of three) handle the problem of legislation; experience has shown that the results of committee actions are seldom as intelligent and effective as those of a single strong, comprehending mind. Joint action usually results in either weak compromise or in failure to agree, with the disastrous results which are the logical sequence of what might correctly be called "disjointed action." The theory that to combine a large number of superior persons, in order to get a super high-class result, does not work because it does not accord with human nature. The result of a meeting of many intellects is too frequently a compromise of what the psychologists call "the product of the mass mind," which is always below the average of the individual mind of component members. Members of legislatures, chambers of commerce, and trade associations are generally superior men—yet their joint product is frequently below expectations.

The proposed committee of five, as well as the Czar, must be broad-gauged men, thoroughly familiar with the industry. They might be utility officials, economists, even bankers. The best results would probably be obtained by selecting a man as czar who is not a lawyer, although the committee should be given the opportunities to get the best legal talent available. Only too frequently lawyers concentrate on the technical legal problems involved and do not give the business problems—particularly the public relations problems—their proportionate weight.

As public service companies are not competitive, there can be little fear that, owing to close relations with the Czar, some company might somehow benefit at the expense of another.

If the utility Czar who is thus selected is big enough to hold down his job, he would be big enough to confer with the committee of five who would be available for consultation. He would weigh suggestions without necessarily adopting them in whole or in part. There is much point to one of the remarks attributed to the late John W. Gates:

> "The way to run a company is to have an executive committee of three and have two of them stay at home."

It would, of course, be necessary to select a forward-looking Czar, who could visualize the public as well as the corporate point of view and who would actually press for and not try merely to restrain sound regulation which must be accomplished, with a minimum of irresponsible interference. It would be easier to find one large-caliber man than to persuade many smaller minds, only too frequently in high position, to lay aside their jealousies and give someone real authority.

The only men 100 per cent perfect are those we read about in books. The electors of the suggested Czar must be content with considerable less than 100 per cent perfection and look for someone with tact, vision, general information, a steadying sense of humor, and a knowledge of the problem, together with an impersonal point of view, and do the best they can with the human material found to be available.

UNLESS the utility industry and its leaders face facts frankly, it can hardly avoid the alternative of regulation that may be brought about by the inflamed desire of the incomprehending crowd. If the industry is to achieve real leadership, it must utilize it both for self-regulation as well as for the prevention of those abuses which might in turn stimulate unsound and unwise regulation.

Self-regulation may be roughly divided into:

(a) Provision for a standard method of frank and full accounting;
(b) Public realization that any company which does not comply with frank and full accounting methods is not deserving of credit and that probably its rate structure is unsound;
(c) Education of company officials in public relations problems.

Suppose, for the purpose of developing a system of accounting beyond cavil, the Czar selects a committee composed of accountants of public utility companies and of public service commissions; of certified public accountants and of engineers familiar with accounting problems and practices. Suppose they agree on the form of:

(1) Balance sheets;
(2) Income accounts;
(3) Profit and loss accounts;
(4) Surplus account;
(5) Depreciation formulas.

Suppose they work out clear-cut definitions of "current accounts" and "reserves"; suppose all company reports state the salaries of all officials receiving over, say $5,000 per annum; suppose they describe all intercompany contracts and other intercompany relations.

Whenever the committee cannot ar-

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rive at a substantially unanimous agreement, suppose the Czar has the final word.

Most, if not all, of the alleged misdeeds committed by public utility corporations would obviously have been impossible if the intending malefactors had been under compulsion of clearly setting forth the information outlined above.

SUPPOSE that every utility company's report showed exactly what each company does. Suppose it stated whether it is an operating or holding company; what it is earning; how much it is paying for its major supplies (such as fuel, steel, copper), and what salaries it is paying. Suppose each company showed in its balance sheet, in reasonable detail, at what amount every division of the property is carried; what is due by subsidiary companies; of what current assets consist. Suppose the current assets were aged so the analytical reader might know whether the so-called current assets were really collectible or whether they represented the capitalized loss of one or more subsidiary companies, as is too often the case now. And suppose they were frank about their depreciation accounts.

The life of each component part of a property is fairly well known. Its life may be shortened by new inventions, causing more rapid obsolescence. If this is necessary, there is no reason why it should not be so stated.

Most likely the average small stockholder or investor would not trouble to read such a detailed report; he might not understand it if he did. But the company could send out a condensed report to all stockholders and offer to send a detailed report upon request. The various financial manuals would publish extracts from the detailed reports and insurance companies, banks, estates, and many brokerage houses who have statistical departments or analysts would make use of the information.

SUPPOSE the original set-up provided for changes in the methods of accounting which experience showed to be desirable from time to time. Suppose the utility corporations copied the English custom of having the corporations provide in their by-laws that companies' auditors shall be selected by the stockholders and shall be responsible to them and shall be in attendance at the annual meeting of the stockholders for the purpose of answering such proper questions concerning the company's affairs as might be put to them. At present auditors are generally engaged by the officials whose activities they are supposed to supervise. They are frequently inclined to bend in their direction for fear that if they do not do so, they will not be reëmployed.

No doubt, many corporations' officials would seriously object to the publication of the amount of their salaries. If such salaries are unduly high or out of proportion to the value of their service, such objection is natural. The man who pays the bills—the security owner—is entitled to this information; if he thinks the salaries are too high and wishes to reduce them, he should have that right which goes with ownership. If, as a result of inadequate salaries, the efficiency, therefore the net earnings, of the corporation should decline, the stockhold-

er would have to accept the consequences. In most instances, presumably, the salaries of the men at the top should be smaller than they are, with a larger contingent interest in the profits. Utility officials who persist in voting themselves or each other high salaries may be sure that they will not be able to do this much longer. Furthermore, they may bring about a demand for government ownership with the customary low salaries in line with those paid to our Congressmen.

THE previous loose association of public utility companies, which was largely dominated by interests which have been dethroned by the ruthless march of events, has now been replaced by the Edison Electric Institute, which is starting under excellent auspices, despite the suspicions of those persistent critics who declare that while this new organization may "speak with the voice of Jacob, it still has the hand of Esau."

The Edison Electric Institute contains within its membership officials of some of the strongest and most important utility corporations. If these officials have the vision—and the courage—to enforce the highest standards of accounting and public relations on their membership and give intelligent publicity to this fact, they will put their companies into a "preferred class" whose securities will command a premium over those of the nonconformists. These latter will soon learn that it will pay them to conform. The Edison Electric Institute has the opportunity of exercising unusual power in stabilizing the market for utility securities. It has the opportunity to hold its member-corporations to such high ethical standards of business conduct that its imprint upon securities will approximate in sales value the term "sterling" on silverware.

No such important object can be accomplished, however, without strong personal leadership. The public likes the idea of a high standard, but also wants a personality with whom to identify it.

EVENTS are moving rapidly in the public utility realm; they are fast overtaking the conservatives and the well-intentioned but slow cogitator. The hour is striking for a bold, constructive, and forward-looking move. Will the industry take it?

Will it appoint a Czar?

The Uncertainties in the Legal Status of Temporary Rates

DURING these days of rapid economic changes and constant price readjustments, the public utility commissions are being deluged with demands for rate reductions. The number of temporary rate orders issued has exceeded all records—but now the legality of some of these orders is being subjected to critical scrutiny. Just what the present legal status of these orders is, and the constructive measures that have been proposed to rectify the faults that the present laws admittedly embody, will be set forth by JOSEPH C. SWIDLER *in a series of two illuminating articles, the first of which will appear in the coming number—out August 3rd.*

WHAT THE RECORDS SHOW ABOUT THE

Tax-free Towns of Oklahoma

Of the sixty-eight towns in the United States which have been widely exploited as "taxless," because of the successful maintenance of municipal plants, fifty-six are located in Oklahoma. For several months the author of the following article has been conducting a check-up on these towns and tabulating his findings—which are here reported.

By E. F. McKAY

WILL Rogers, the distinguished citizen of my state and goodwill ambassador to all the world, prefaces his weekly discussion on politics, etiquette, or what have you by assuring his readers that all he knows is what he sees in the papers. In that respect Will Rogers is just like everybody else. Most of what we know (or think we know) is what we read. If it is in the newspapers it is there because some news editor has considered it outside the usual run of events.

If this is true, why discuss the claims which are broadcast constantly all over the country, that the municipal operation of utilities makes towns "tax-free?"

If this were true generally, it would not be news. But even though it is untrue, its proclamation, often by men in high places, becomes news regardless of the fact.

FOR some reason Oklahoma seems to be credited with being the happy hunting ground of "tax-free" towns.

From the day in 1907 when Secretary Taft said that his opinion of Oklahoma's proposed Constitution would be unfit for publication, my home state has been in the public eye, often with keen distress to both the state and the eye. Any act of ultra-lurid banditry, of the spectacular in legislation, any newly developed procedure in affixing the proverbial tin receptacle to the gubernatorial caudal appendage, or any unprecedented recourse to martial law for opening toll bridges or closing oil wells, or something equally bizarre, usually causes the public to assume, unless the contrary be stated—and not wholly without warrant or reason—that Oklahoma has furnished the stage setting or the battle ground.

So when American newspapers proclaimed recently that there were "Sixty-eight Taxless Towns in the U. S. A.," a check of the list furnished as a basis for the report occasioned no surprise when it revealed fifty-six of

the reputed sixty-eight Utopias as situated in Oklahoma.

The broadcasting, in periodicals ranging from country weeklies to the *Congressional Record,* of the story about the "sixty-eight taxless towns" aroused international interest. Avalanches of requests poured in for a series of exhibits on the subject,[1] following an announcement by the N.E.L.A., that these were available. Within thirty days after this announcement was made more than 400 sets of these exhibits had been sent out to thirty-seven states and Canada. These exhibits, and special surveys of all the more widely advertised municipal utility departments in Oklahoma, made by an auditor whose capacity for the job is not excelled and who worked under strictest admonition to make no finding or conclusion not amply supported by official public records, form the basis for statements here made, so far as results of municipal operation are concerned.

BUT the claim that there are sixty-eight tax-free towns has been challenged.[2] By cold analysis it has been demonstrated that there are no taxless towns in the United States or anywhere else, that there never have been, and never will be. There cannot be.

Authority for the claim that there are sixty-eight taxless towns may be found in Leaflet No. 7 of the Public Ownership League of America, issued last year, which appeared in *Public Ownership,* the official organ of the league, in its issue for July, 1932. The league stated in this leaflet:

> "We have all over the country cities, towns, and villages that are making such a splendid and, to many people, such a surprising success of their municipally owned utilities that they are earning profits or surpluses sufficient to pay all the costs of their local city governments and are thus wiping out local taxes entirely. And, what is more, the number of such cities is growing every year—nearly every month."

The enthusiasm of the Public Ownership League for this idea burst forth last September in an advertisement in a Chicago newspaper wherein it was claimed that the league had made sixty-eight towns of the country tax free through municipal utility operation. The truth of this statement was brought into question. Suggestions were made to the newspaper publishers that there was ample justification for bringing this advertisement to the attention of somebody concerning itself with truth in advertising. Acknowledgment of this challenge came from the Chicago Better Business Bureau, which stated that Carl D. Thompson, secretary of the league, had told an agent of the Better Business Bureau that the advertisement was incorrect and would not be run further, but had denied personal responsibility for the copy.

WHILE the taxless town claim has been repeatedly proved an absurdity, many an insistent reader will ask himself what the pertinent facts are concerning the sixty-eight towns alleged to be in that happy situation.

There is justification for taking seriously this sixty-eight taxless town propaganda for municipal ownership. There is popular acceptance of the old

[1] Prepared by the Oklahoma Utilities Association, following a 4-line announcement by the late N.E.L.A.

[2] See Herbert Corey's article, PUBLIC UTILITIES FORTNIGHTLY, December 8, 1932.

idea that whatever man has done, man may do. There is grave danger that citizens of other cities may assume that what has been accomplished in these reputedly successful municipal ownership towns can be done anywhere. Even if the claim of successful operation, so far as these Oklahoma towns are concerned, were not challenged, this assumption would not be justified. Results rest in each instance upon conditions peculiar to the city or locality where the operation has taken place. In no two cities or localities are conditions identical or can identical results be expected.

My impulse to discuss this question springs from a sense of accountability, due to the fact that fifty-six of the sixty-eight so-called taxless towns are in my state. If the facts are not as claimed, what are the facts? Let us, as Al Smith remarks, look at the record.

The fifty-six Oklahoma towns included in the Public Ownership League's list of sixty-eight alleged tax-free towns are the following:

Altus	Gould
Beggs	Grandfield
Blackwell	Granite
Braman	Hartshorne
Carmen	Kaw City
Cherokee	Laverne
Claremore	Lamont
Commerce	Lindsay
Cushing	Loco
Duncan	Manchester
Earlsboro	Mangum
Edmond	Manitou
Eldorado	Maud
Fairfax	Mooreland
Fort Towson	Morris
Frederick	Newkirk
Garber	Norman
Olustee	Seminole
Paoli	Shattuck
Pawhuska	Stroud
Pawnee	Tahlequah
Perry	Tecumseh
Ponca City	Vici
Pondcreek	Waynoka
Randlett	Weleetka
Roff	Wetumka
Roosevelt	Wynnewood
Sallisaw	Yale

Let us remember that the above towns are said to be tax-free because they have municipal ownership and operation of utilities. Let us understand also that the Public Ownership League has said that it means, by the term "tax-free," that these towns have no general city levy to raise money for general costs of city government. Let us understand, still further, that "municipal utilities" refers primarily to electric and gas utilities; municipal ownership of water service is so nearly universal, and the claim of extensive profits therefrom so rare, that the present discussion may be held not to refer to water plants.

Of the fifty-six towns of Oklahoma alleged to be tax-free through successful municipal utility operation, twenty-one are without municipal utility service of any kind except water.

These towns and the companies serving them are listed on page 76.

Nineteen towns are not tax-free, even as contemplated by the Public Ownership League.

In other words, nineteen of these fifty-six towns, for the fiscal year 1931–32 (in which year the list of

¶ "Of *the fifty-six towns of Oklahoma alleged to be tax-free through successful municipal utility operation, twenty-one are without municipal utility service of any kind except water.*"

sixty-eight alleged tax-free towns was compiled), had general city levies in mills per dollar of assessed valuation. These cities with their general levies were the following:

General City Tax—Mills per dollar

Altus	3.81	Paoli	.5
Carmen	4.	Pawnee	9.9
Commerce	6.	Randlett	3.52
Eldorado	3.5	Seminole	6.
Ft. Towson	4.	Shattuck	4.
Grandfield	3.2	Stroud	6.
Hartshorne	6.	Vici	4.
Kaw City	6.	Waynoka	4.
Manchester	4.	Weleetka	4.
Maud	6.		

Thus are eliminated twenty-one towns in Oklahoma out of the fifty-six which are alleged to be tax-free through municipal utility operation; all of these twenty-one towns are served by private utility companies only and not one of them has any municipal utility service except water. Nineteen more of the fifty-six taxless towns have general city fund levies; (ten towns of the two groups are twice eliminated because they have no municipal utilities except water and also because they have a general city fund levy). This leaves twenty-six of the original fifty-six towns for further consideration. Among these are all the Oklahoma towns that have been most widely proclaimed as demonstrating success of the municipal ownership idea, including Duncan, Pawhuska, Tecumseh, Claremore, and the municipal ownership towns of Kay county. While there are six such towns in Kay county, not all are included in the fifty-six Oklahoma towns of the original list of sixty-eight. Of those included in this list, the greatest is Ponca City.

It is neither feasible nor necessary to put the spotlight on all of the twenty-six towns not already eliminated. Knock out the keystone and any arch will be weakened. Knock out additional stones and it will fall. We shall direct our attention, therefore, first to the keystone of Oklahoma's municipal ownership arch, Ponca City; then to other stones nearest in importance to the keystone. These include Duncan, Claremore, Blackwell, Pawhuska, and a few smaller stones and pebbles.

ALL the Kay county group, Ponca City, Blackwell, and Newkirk, and a fourth town, Tonkawa, overlooked by the compiler of the list of sixty-eight alleged "tax-free" towns, were without general city fund levies for the fiscal year in which the list was compiled. But were these towns tax free?

They were not!

Let the *Daily Oklahoman* (Oklahoma City) testify. Under the heading "Kay's Sad Tale of Taxes Is 16 News Pages Long" the Oklahoman ran, on Tuesday, October 18, 1932, following news item:

> "Ponca City, Oct. 17—(Special)—Kay county delinquent tax list is to be published October 20th and 27th. It will require 16 pages, or 129 newspaper columns, to print the list, 24 columns increase over the 1931 job. There are 15,000 descriptions, covering delinquent ad valorem, paving, sewer, and weed taxes, the last three being strictly municipal. Ponca City's delinquent ad valorem tax has increased 6 columns, Blackwell's 3, Newkirk's 1, and Tonkawa's 2½ columns."

In these towns, proclaimed as tax-free, the owners of 15,000 pieces of property stood to lose title to the same for failure to pay taxes, including, in each instance, municipal as well as school, county, and state taxes. The municipal levies, exclud-

	Electric Service	*Gas Service*
Beggs	Okla. Gas & Elec. Co.	Beggs Gas Service Co.
Commerce	Empire Dist. Elec. Co.	Consumers Gas Co.
Cushing	Interstate Power Co.	Consolidate Gas Serv. Co.
Earlsboro	Okla. Gas & Elec. Co.	Earlsboro Gas Co.
Ft. Towson	Pub. Serv. Co. of Okla.	(No service)
Garber	Okla. Gas & Elec. Co.	Consolidated Gas Serv. Co.
Gould	Southwestern L. & P. Co.	(No service)
Grandfield	Southwestern L. & P. Co.	Grandfield Gas Co.
Hartshorne	Pub. Serv. Co. of Okla.	Tri-Cities Gas Co.
Lamont	Okla. Gas & Elec. Co.	Okla. Nat. Gas Corp.
Loco	Loco Light Co.	Community Nat. Gas Co.
Maud	Okla. Gas & Elec. Co.	Southwest Gas Util. Corp.
Morris	Pub. Serv. Co. of Okla.	Okla. Nat. Gas Corp.
Norman	Okla. Gas & Elec. Co.	Okla. Nat. Gas Corp.
Paoli	Okla. Gas & Elec. Co.	Community Nat. Gas Co.
Randlett	Wolverton L. & P. Co.	(No service)
Roff	Okla. Gas & Elec. Co.	(No service)
Roosevelt	Southwestern L. & P. Co.	(No service)
Seminole	Okla. Gas & Elec. Co.	Seminole Gas Co.
Shattuck	Okla. Gas & Elec. Co.	Pub. Serv. Co. of Texas
Vici	Okla. Gas & Elec. Co.	(No service)

The twenty-one towns in Oklahoma which have been exploited as "tax-free" as the result of municipal plant operation, but which actually have no municipal plants except for water supply.

ing school taxes, were as follows:

Blackwell, 17.82 mills or $17.82 per $1,000 of valuation.

Newkirk, 33.4 mills or $33.40 per $1,000 of valuation.

Tonkawa, 29.54 mills or $29.54 per $1,000 of valuation.

Ponca City, 8 mills or $8.00 per $1,000 of valuation.

But what are the facts? If these cities are not the shining examples which proponents of municipal operation say they are, wherein is the claim of being tax-free unwarranted?

THERE is evidence that much of the claim in behalf of Ponca City is not justified, and it is easily provable that other cities could not duplicate what has been done there.

An important factor in utility plant operation is cost of fuel. Ponca City purchases its fuel oil locally, without transportation cost. A substantial factor in municipal expense is salaries of public officials. Ponca City has had

the benefit of highly trained technical and business experts at little or no cost, as these men are officers of some of the country's largest oil companies which serve the city only incidentally. The city treasurer, for instance, draws no salary. To credit Ponca City's light department with the city's favorable financial situation is unfair to the city's water department which charges abnormally high rates. Ponca City has an especially high proportion of residence (the most profitable) electricity users. The city makes no provision for depreciation of its utility properties. The electric and water systems have a book depreciation exceeding $600,000, but no reserve for replacements has in fact been established. Ponca City's electric rates are higher than utility company rates in utility company towns in Oklahoma of similar population. Ponca City taxpayers have never been and never will be compensated for the cost of obsolescence of two discarded electric plants. Future bond issues must be resorted to for replacement of electric plant, as no other provision for this certain need is being made.

Ponca City had a city tax levy of 8 mills for 1931–32. In order to omit a city levy for 1932–33 the city also omitted an appropriation of any of its 1931–32 water and light surplus to the city's sinking fund, the general fund being thus favored.

A second alleged tax-free town in Kay county is Newkirk. This town had no general city tax for 1931–32. The town has a municipal lighting rate of 10 cents a kilowatt hour for all current used. This is $5 for 50 kilowatt hours. The town has a population of 2,135. The bill for 50 kilowatt hours at Checotah (with a population of 2,110 and the nearest Oklahoma town to Newkirk in population and served by a private utility company) is $3.60. In its accounting Newkirk does not include light plant bond interest as a part of the cost of the property. With proper accounting its electric plant had a loss of $4,830 for 1931–32, instead of the profit of $17,754.37 reported. The maximum statutory general city tax levy in Oklahoma is six mills. Newkirk's total levy for the current year does not include a general fund levy but is 8.6213 mills higher than it would be if the city did not own its light plant.

The third Kay county town included in the celebrated list of sixty-eight towns alleged to be tax-free, is Blackwell.

Notwithstanding six municipal electric plants in Kay county, which, of course, are tax exempt, public service property (electric, gas, railroad, and pipe line) furnishes 25 per cent of the total Kay county valuation, and, with the gross production tax on oil, makes the necessary county tax levies decidedly subnormal. There is no county bonded indebtedness or outstanding warrants, except current series. These facts naturally are reflected favorably in the tax situation in the cities. Owing to presence of large smelters in Blackwell, diversity of demand for the city electric plant is exceptional and highly advantageous. Nearby gas fields afford fuel at vastly subnormal cost. No adequate provision has been made for depreciation and obsolescence of the light plant. Replacements

and extensions will require future bond issues. There is no general city levy, but extra costs paid by citizens for electricity over company rates available, taxes to pay interest and accruals on light plant bonds, and interest citizens were entitled to on money advanced to pay off bonds have far exceeded the maximum legal levy for general city purposes. A competent audit of the city's finances for the year ending June 30, 1932, shows the net profit claimed for the light plant to be nearly 200 per cent of the amount justified.

LEAVING Kay county, let us now take a glance at Claremore. Far be it from me to detract one whit from the glory of Will Rogers' home town, but at best there is little just glory in the town's record of municipal utility operation.

Claremore needs additional electric generating capacity and is without means of financing its requirements, no depreciation or obsolescence reserve having been set up. No income from the Claremore plant has ever been devoted to payment of interest or accruals on the bonds which paid for it. For every dollar now owed on water and light bonds, Claremore owes $1.50 on interest.

These facts certainly dissipate any idea of successful municipal electric plant operation there.

PAWHUSKA, another of the celebrated sixty-eight tax-free towns, is celebrated also as the "Capital of the Osage," home of the Indian tribe which became the wealthiest group of its kind in the world, because the government established it in an area which later proved fabulously rich in oil. Pawhuska would seem to be entitled to distinction for a bad rather than good municipal fiscal record. Be it remembered that the town has no general city levy. But—

Pawhuska has had six city managers in eleven years; with a population of less than 6,000 it had June 30, 1932, bonded debt of $800,620; it has eighty appointive municipal jobs; until April, 1933, its electric users were charged a meter rental of 25 cents per month in addition to service bills; two municipal electric plants have been worn out and scrapped with no record of their value; there is no inventory of city property and no appraisal of its value has ever been made; its municipal electric earnings have come from abnormally high rates. In 1931–32 light plant costs amounting to $12,522 were charged improperly to other departments; its electric department earnings have declined each year since 1926, from $132,000 for 1926–27 to (estimated) $97,000 for 1932–33; the city's assessed valuation has declined 40.8 per cent in the last five years and its mu-

¶ "THE *real answer to the pitiful story of Pawhuska's municipal gas operation is that a public utility company competes with the city in furnishing gas service and has gradually taken over the city customers until, January 1, 1933, the city served less than 150 out of 1,600 customers.*"

nicipal tax rate has increased 41.2 per cent. All accumulated electric surplus funds of former years have been appropriated this year to the sinking fund—much of it illegally because it was not credited to the year in which collected. Without a city general fund tax, citizens have paid $38,000 in penalties on delinquent municipal taxes, which of itself refutes the tax-free claim.

PAWHUSKA is doubly distinguished in that it has municipal gas as well as municipal electric operation. In 1931–32 its municipal gas department expense exceeded its earnings by $498.15. The 1932–33 municipal budget provides for a gas expenditure of $4,000 in excess of anticipated earnings. City authorities concede that the municipal gas system does not pay its cost. Pawhuska citizens must still pay $46,500 to clear the bonded debt on the municipal gas system, with total gross receipts for the last four years of $46,432. In the last seven years Pawhuska's gas department receipts exceeded expenses charged by $44,000, but there was no expense charged for taxes, rent, billing, collections, postage, books, transportation, bond interest, interest on invested capital, depreciation, depletion, or obsolescence.

The real answer to the pitiful story of Pawhuska's municipal gas operation is that a public utility company competes with the city in furnishing gas service and has gradually taken over the city customers until, January 1, 1933, the city served less than 150 out of 1,600 customers. That it is a friendly competition, however, may be indicated by the fact that when the city's gas supply proves inadequate (as it usually does in cold weather) the utility company furnishes to the city the gas necessary to supply the needs of its customers. Instead of paying the city's general government costs, a competent audit shows that for the last seven years Pawhuska's municipal utilities have paid only approximately 50 per cent of this cost.

THIS brings us to Duncan, the story of whose achievements in municipal electric utility operation has been widely exploited.[3]

In Duncan there is competition between private and municipal electric service, with a somewhere-near even division of the business. The last large undertaking of the former city manager, before his sudden retirement from office, was a newspaper debate with the managing executive of the competing electric company over the performance of the municipal electric department. The city manager used the newspaper news columns to set forth his claims, while the private company manager used display advertising space. The city manager's discharge ended the debate.

Duncan has been pointed to frequently by the Public Ownership League as an outstanding demonstration that municipal utility operation makes cities tax-free. Duncan has omitted its general city levy. The maximum statutory general city tax levy in Oklahoma is six mills per dollar of assessed valuation. Citizens of other states often ask how Oklahoma cities without a general levy

[3] See *Public Ownership*, January, 1933; article by W. H. Hollingsworth, former city manager of Duncan.

The Status of Tax Delinquents in Four Taxless Towns:

"In these towns (Ponca City, Blackwell, Newkirk, and Tonkawa), proclaimed as tax-free, the owners of 15,000 pieces of property stood to lose title to the same for failure to pay taxes, including, in each instance, municipal as well as school, county, and state taxes."

finance their operation. The answer is different in each city and is involved in some of them; it is clear, however, in Duncan. Revenue from tax penalties represents an income equal to 1.1 mills per dollar. A special sewer tax represents 1.5 mills. A special sanitary tax represents 1.97 mills. Excess of water department revenue over similar revenue from lower rates in effect in Lawton, a neighboring town of similar size with company electric service, represents 4.1 mills on the dollar of the Duncan valuation. These four items, which most towns do not have, yield 8.67 mills or 2.67 mills in excess of the maximum general levy permitted by our law.

If we seek further ground for doubting profitable municipal operation at Duncan, we may consider the value of the electric plant. The city manager until last August stated in July that outstanding indebtedness against the plant was $247,727. He claimed a profit of $19,292.98 for the fiscal year ending June 30, 1932, after paying all operating and capital expenses. (We will look at these expenses later.) The alleged profit earned by the plant was practically 6 per cent on the outstanding indebtedness. The plant has cost Duncan citizens approximately $435,000. Thus, citizens had in the plant, July 1, 1932, an investment of approximately $188,000 upon which they are earning and have earned nothing; were proper interest and depreciation charged on this amount the alleged profit would be wiped out. Tax penalties are included in general fund revenue, but illegally, as Oklahoma law requires such revenues to go into a special "pavement repair fund" and city officials appropriating such revenue to the general fund are personally liable for the amount so appropriated. The sewer tax and the sanitary department tax referred to are not *ad valorem* taxes, but are city taxes and refute the tax-free claim. Electric plant revenue "in transit," or due but unpaid June 30th, appropriated to the general fund, a substantial factor in Duncan's good showing, was an il-

legal appropriation; the Oklahoma Supreme Court has held that all such funds must be credited to the year in which collected.

But let us see how the city manager had been taking care of Duncan's city expenses.

In the joint salary account for the water and light department the water department bears supernormal and the light department a subnormal charge. No part of administrative general cost or the city manager's salary was charged against the electric department, nor was any part of the salary of the city engineer or city attorney, although the attorney defended the city against a damage suit arising from light plant operation in which a $35,000 judgment was rendered, and which is now pending on appeal.

No charge is made against the light plant for insurance, or auditing, or postage, or telephone and telegraph, or books, stationery, printing, or supplies, or for furniture and equipment. The utility management and collection department is conducted in the city hall (built from proceeds of a bond issue), no part of the cost of which is charged to the light department. The sinking fund carries an item in the form of a judgment caused by the city's refusal to pay for light department engine repairs.

Competent, fair, and honest accounting would convert Duncan's alleged profit from municipal utility operation to a definite and substantial loss. The Duncan bond record reveals a deplorable state of affairs which is constantly growing worse. The sinking fund has a deficit almost equal to its assets forecasting inevitably an early funding bond issue.

To go farther would be only cumulative.

Other municipalities among the sixty-eight alleged to be tax-free, are Edmond, Fairfax, Mangum, Manitou, Olustee, Perry, Sallisaw, Tahlequah, Tecumseh, Wetumka, Yale, and a few of lesser importance. These municipalities operate either gas or electric service and have no general city tax. That they are far from tax-free, however, is proven by their municipal tax levies for either last year or this year, these levies, excluding all school, county, and state taxes, being, for the two years, as follows:

	City Tax per $1,000 of Valuation	
	1931–32	1932–33
Edmond	$15.66	$21.40
Fairfax	17.36	21.80
Mangum	18.16	19.86
Manitou	47.60	62.13
Olustee	31.32	40.00
Perry	14.25	14.28
Sallisaw	37.00	46.20
Tahlequah	21.25	31.20
Tecumseh	63.63	64.52
Wetumka	43.84	59.88
Yale	24.25	58.09

Thus, it appears that not only do these tax-free towns have city taxes in fact, failure to pay which will cause their citizens to lose their property, but in each instance the city taxes for 1932–33 in these alleged tax-free towns are higher than for the preceding year. Unquestionably, the taxes in some of these tax-free towns are confiscatory.

But why extend the record with more evidence on a proposition already established? The inescapable conclusion is that municipal utility operation does not make towns in Oklahoma tax-free. And what is true in Oklahoma is true universally.

HOW THE UTILITIES WILL BE AFFECTED BY

The Shorter Work Week

Whatever the outcome of numerous current proposals to reduce the hours of labor, the task of reabsorbing into industry the 12,000,000 unemployed workers points to a redistribution of jobs and a reduction in the hours of employment. The effect upon the utilities must necessarily differ from the effect upon industry in general, inasmuch as utility rates cannot fluctuate readily in response to economic conditions. In the following article the author outlines what the particular problem is which confronts the utility industry.

By GEORGE SOULE

ALTHOUGH the uniform 30-hour law was not passed by Congress, the industrial recovery bill which took its place (with, of course, provisions of a much larger scope) is virtually certain to lead to downward revision of working hours. Even if this particular bill had not become law, the movement toward shorter hours enforced by public authority, had achieved such strength that it could not long have been resisted. And this tendency is likely to spread to industries, like railroads and public utilities, which may not formally come within the provisions of the industrial bill.

The new legislation is, of course, much more flexible than the original Black bill. On this very account it is interesting to inquire into the different ways in which shorter hours, made compulsory under the law by one device or another, will impinge upon different industries. Will railroads and other public utilities be affected in the same way as competitive manufacturers?

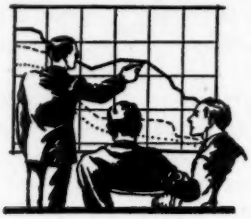
TAKING for granted the general case for shorter hours—that we are now equipped to produce much more with less work than formerly, and, therefore, that the resulting leisure should be equally distributed by shorter working periods rather than being concentrated in a large number of totally unemployed—still the problem of applying this principle without immediate damage is a large one. The obvious comment on the part of the employer is that to reduce hours without corresponding cuts in wage rates means an increase in labor cost, and

under present conditions the urgent problem of most employers is to cut costs rather than to increase them. A sharp and sudden increase in costs is likely to shut down many plants and aggravate unemployment. It is true that, in the long run, if a measure of this kind enlarged the purchasing power of the worker, the growth of the consumer market would make up for the rise in costs. But what is to happen in the meantime? The initial contribution to the increase of wage-earners' purchasing power is required from the employer, and many employers have not the money to contribute, and cannot get it.

NUMEROUS important employers, in spite of this objection, favor the measure. A large manufacturing establishment which is highly mechanized has already reduced its labor cost to a relatively small proportion of its total cost—the major problem is that of overhead. No conceivable reduction of wages or diminution of labor force could put this concern in the black or keep it there. It needs relatively full operation of its plant and equipment. But at present it is operating on a greatly reduced schedule. Its attention is, therefore, concentrated on expanding its sales, and its executives know that it cannot do this as long as the purchasing power of wage earners in general is shrinking.

In order to avoid cutting wage rates more than they have already been cut, and in order to keep unemployment at a minimum, many a large, highly mechanized concern has adopted the policy of spreading work. It has done this at relatively little sacrifice. Certain cut-throat competitors, however, have adopted the opposite policy of cutting wage rates to the bone and lengthening hours. This is a suicidal policy for the industry in question, and the enlightened employer does not wish to be compelled to follow suit. He wants, instead, to compel competitors, and industry in general, to adopt the policy he favors. He thinks that if everyone would do this, the disastrous competition in reducing the purchasing power of wage earners would end, and there would be a chance of expanding sales and thus covering overhead and fixed charges. A 30-hour week schedule would be no burden on him, for he is already operating on short hours. If business should expand, he can merely add extra shifts, with no increase in his present unit labor costs, and with a diminution of his overhead.

THERE are other industries in which the shorter week could be enforced with little immediate loss and much ultimate benefit, even though they are not dominated by large units of the type described above. These industries are composed of a large number of concerns and are highly competitive. They are the "sweated" industries like clothing and garment manufacture. In such industries labor standards during a depression are relentlessly driven down, regardless of the intentions of individual employers. To pay as low wages and work as long hours as the next man is a condition of remaining in business. If labor standards were raised by law, no competitor would be worse off than he was before, because all would have to meet the same labor requirements. Prices of the product



A Reduction in Working Hours Means an Increase in Labor Costs to the Utilities

"A REDUCTION *of the working week in the utilities would mean an immediate increase in labor cost. . . . Like the railroads, but unlike many manufacturing industries, the utilities could not seek compensation for such an increase in costs by charging higher prices for their products. Their rates are regulated by public authority and cannot be changed promptly."*

are highly flexible, and would rise almost immediately under these conditions. There would be some risk of a diminished demand from consumers, but not a great deal, because prices for what these industries make are already extraordinarily low.

THE public utilities are in a different situation from either of the above categories, and their situations in turn differ from one another.

The railroads, though highly mechanized and burdened with a heavy overhead, still have a proportion of labor cost which is significant in their financial results. Their hours of work are already standardized, and competition in the setting of wages is outlawed. Unlike the large manufacturing concerns previously described they would feel a shorter legal working week in the form of an immediate increase in unit labor cost roughly proportional to the reduction in hours. But many of them cannot meet their obligations even at the present level of costs. Unlike the sweated industries, they have not materially reduced their prices during the depression, and could not raise them. On the contrary, rate reductions, probably of some magnitude, must be made in the near future.

In one respect alone the railroads are in the same boat as the manufacturing industries—they stand to gain from an expansion of business, resulting from a general increase in purchasing power, more than from any conceivable reduction of costs. If the recent volume of traffic continues, it will be impossible to save many of them anyway. So that the addition of labor cost by a shorter working week would not create new problems so much as it would aggravate old ones which already are acute and

which demand drastic changes of railroad organization in any case.

THIS is not the place to discuss railroad reorganization in detail, but in general the observation may be made that it must cut both capital and operating costs in order to make possible the necessary reductions of rates which may lead to revived business. If labor is not to suffer by this process, but on the contrary is to make an immediate gain, the money to finance this gain cannot come from present railroad revenues. They are not big enough. An efficiently reorganized railroad system ought, if prosperity returns, to be able to carry a 30-hour week at a high wage level. If the 30-hour week is to be installed before that time, it can be done only by subsidy. And that would be defensible only if the government were called in to do the reorganizing—an eventuality which is nearly certain to occur.

Doubtless a government guarantee of some sort will be necessary for part of the railroad capital, and government funds will be necessary for financing repair and investment in new equipment and plant. In that case labor may argue the desirability of public financing also for the 30-hour week. But the soundness of such governmental advances will depend entirely on whether the government has the power and the capacity to put the railroads ultimately on a self-sustaining basis by efficient reorganization and by the return of prosperity.

THE electric and gas utilities are on a still different footing. Like many big manufacturing concerns, they are highly mechanized and their labor costs are small relative to their overhead and fixed charges. Unlike these concerns, however, their volume of business has been less reduced by the depression. They are not, for the most part, on short schedules of working time at present. Generation of power and upkeep of equipment must go on, no matter what the demand. The electric power index, measured by the daily average, seasonally adjusted, was, on April 15, 1933, 63.9 per cent. Their wages, too, have been reduced less than manufacturing wages. Whereas average per capita weekly earnings fell in manufacturing 33.6 per cent from 1929 to 1932, they fell only 3.3 per cent in public utilities.[1]

A reduction of the working week in these utilities would mean an immediate increase in labor cost. It is quite possible, however, that on account of the small proportion of labor cost to other costs, and on account of the relatively good financial condition of the gas and electric operating companies, this increase of cost could be absorbed without serious consequences.

LIKE the railroads, but unlike many manufacturing industries, the utilities could not seek compensation for such an increase in costs by charging higher prices for their products. Their rates are regulated by public authority and cannot be changed promptly. In any case, rates are likely to be revised downward rather than upward, since they have not fallen as much as other prices during the depression.

[1] From a study of "Wages During the Depression," by Leo Wolman, for the National Bureau of Economic Research.

It is entirely possible in their case, however, that reductions in rates are precisely what would compensate for an increase in labor cost. On account of heavy fixed charges, the utilities stand to gain enormously from increased volume of business. It has been demonstrated in case after case that increased volume follows lower rates, especially lower rates to domestic consumers. Net earnings are frequently enlarged when rates are reduced.

It may be argued that this result is not so likely to occur during a depression, since the industrial demand for power is set by the diminished demand for industrial products and cannot be increased by any reduction in the cost of power itself, while individual consumers have not the means to buy electrical or gas equipment, and so could not take much advantage of lower rates. In so far as this is true, a general revival is necessary before the utilities can reap a gain from lower rates and larger sales. Nevertheless, the utilities are in a relatively good position to bear their share, along with the larger manufacturing concerns, in the temporary risks of a shorter working week, in the hope that this, along with other measures, will help the purchasing power of consumers and so make feasible the gain in earnings which normally arises from reduced rates and increased volume. For, in a situation like the present, as long as every interest stands pat, no one can benefit.

The problem is to do in the specific case what the general need demands.

The New Deal in Railroad Security Advertisements

(As they might announce offerings of new flotations under the new bill.)

$5,000,000 6% BONDS REPUBLIC OF BOKA-BOKA

WE will issue $5,000,000 in bonds of the Republic of Boka-Boka due October 15, 1999, bearing interest at 6 per cent.

The Republic of Boka-Boka is, or was at the time of this writing, located in South America. It is bounded on the north by Gopalia, on the south by Letevia, on the west by Joe's Wayside Tourist Camp, and on the east by an unidentified army.

Its President is Ramos de la Ruey, a six-goal polo man in his own right and one of the best dinner companions in all South America. The Secretary of the Treasury is his wife, Dolores, a distinguished beauty. The remaining cabinet offices are held by their son Pastores ("Pookie") de la Ruey, who is the very life of nightclub life on two continents. (You asked for the facts, mister, and you're getting 'em.)

PURPOSE

The bonds are issued for these three major purposes:

1. To build a railroad to the top of Mount Lopa. The President built a public drinking fountain on the top of the mountain and the public is refusing to make the trip on foot.
2. The Secretary of the Treasury is short.
3. The President's son wants to buy a yacht.

PRIOR OBLIGATIONS.

$25,000,000,000 Expansion 8s due April 1, 1927 ..... (Default)
$30,000,000 General Whoopee 5s of 1912 ..... (Default)
$10,000,000 Collapsible 4s of 1930 ..... (Default)
$4.50 personal note of the President (only 75 cents outstanding).

Wimple, Wimple & Wimple, Chicago.

—H. I. PHILLIPS (*Copyright, 1933*)

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

FRANK A. NEWTON
Rate expert.

"Those who urge a reduction in maximum rates do so chiefly to satisfy political expediency."

HENRY ELLENBOGEN
U. S. Representative from Pennsylvania.

"It is stated by competent authorities that the excessive or illegal profits in the United States of electric companies alone . . . are at least $500,000,000 a year."

GEORGE E. SOKOLSKY
Writer.

"It is significant that the two most regulated and controlled economic activities in this country, the incorporated banks and the railroads, suffered most from the depression."

GEORGE B. CORTELYOU
President, Edison Electric Institute.

"We are told that utility rates have not come down in proportion to the fall of commodity prices since 1929. The reply is that they have not come down because they never went up."

WALTER M. PIERCE
U. S. Representative from Oregon.

"Electricity is now a natural monopoly. Its distribution and suppy permit no competition. Private ownership of a natural monopoly is indefensible. Being indefensible it is intolerable. Being intolerable it must be abolished."

JAMES C. DE LONG
Financial writer.

"Failure to provide for these (utility) companies in the act creating the R.F.C.; exclusion of the utilities as beneficiaries under the new Bankruptcy Act; inclusion of the transmission line feature in the Muscle Shoals Bill and, more recently, shifting the electric tax from the consumer to the producer, are convincing examples of legislative acts seemingly motivated by factors other than public interest."

ALEX DOW
President, Detroit Edison Company.

"For the next year I guess that our members (of the Edison Electric Institute) will do more local advertising than heretofore; that the copy will be in the common speech of the day and signed by an executive, and that when there is a lie large enough to deserve recognition we will call it a lie. Whether we shall name the liar is a point on which we had better take advice of counsel. Don't let counsel write the advertisements."

FACTS AND FICTION THAT LIE "BETWEEN THE LINES" OF

Financial Statements

How incomplete data may be—and sometimes are —perverted to give the semblance of authority to contentions both in the interest of, and in criticism of, the utilities.

By ARTHUR J. C. UNDERHILL

THE fall of the House of Insull provided plenty of fuel to rekindle the flame of agitation among certain individuals and organizations of the more liberal type in their attacks against the public utility industry, while the politician with opportunist propensities is ever ready to grasp at such catastrophes to further government ownership campaigns. It so happens that the Insulls worked largely around the utility field, rather than in it, presumably because the edges offered more promising territory. The pyramiding and interlocking of the holding and investment organizations which have fallen did not affect in the slightest the prices charged for gas and electricity in the territory served. The Insull troubles called for attention of authorities charged with enforcement of the Blue Sky laws rather than regulation of utilities.

A great deal of misconception concerning the operation of these and similar investment and holding groups has been built up in consequence. Unfortunately the operators of such groups have been content to permit such misconceptions to develop, and the many statements and reports which have issued from time to time have accelerated this. Not that the managements have deliberately sought to confuse the investing public through issuance of false information, but some of them have issued statements that have been misleading and which created impressions among the public that were erroneous, and which have had their repercussions on the entire public utility industry.

THE fact is that the bulk of investors do not know how to read financial statements of corporations—especially those of public utilities. As a result, these statements are "interpreted" for them by the more liberal-minded experts in their zeal to prove their contentions by statistics issued by the companies themselves. Their ardor is short-lived, however, for it does not always permit them to quote the facts in full or delve into data

surrounding special circumstances of the issues of which they complain. Were they to tell the whole truth, their best arguments in many cases would fall to the ground.

With the public utility situation very much in the public eye as a result of political campaigns on the one hand and campaigns for lower rates on the other, and an appreciation that eventually these matters must be solved on the basis of fact, the time has come to discuss some of the issues frankly and fairly.

To cite a specific instance:

APPRECIATING the misconceptions which have grown up respecting the holding company and utility situation, General Gas & Electric Corporation not long ago released a detailed statement which reviewed and supplemented the full information already issued in communications and annual reports, describing the original investments of the corporation and the changes which had been made from time to time resulting in the portfolio shown in the 1931 annual report.

In addition to making available the step-by-step development of the corporation, the document directed attention to the fact that its investment in operating subsidiaries had been increased so that they then substanially exceeded the investment in operating units at the time of the change of control in March, 1929, when control passed to Associated Gas & Electric interests. In this same period the holdings of securities likewise reached a new peak. As a result of this latter change the company passed from the category of a public utility holding company to that of an investment trust. Issuance of this information was in part in coöperation with policy of the New York Stock Exchange for publication of full details of companies which in whole or substantial part have the character of investment trusts.

Much of the agitation against the utility industry has been directed against the holding companies. The regrettable fact is that not all of these companies have been able to keep their skirts clean. In consequence the wrath of critics has been brought down upon the entire industry—because of the faults of the few. Statements of the nature issued by General Gas & Electric Corporation will go a long way toward clarifying the atmosphere and establishing a line of demarcation as between the holding company and the investment trust. Too many individuals have been led to believe that all public utility holding companies are formed on a basis identical with the fallen Insull organization. The Insull group had never adequately established before the public that its set-up was really that of an investment organization rather than strictly utility operation. And its critics have not yet advised their public that not a single rate has been increased or a single electric light shut off as a result of the Insull receivership.

PURCHASE of operating companies by holding companies has been one of the sore spots and has occasioned much speculation on the part of agitators, largely because they have not been able to discover the actual prices paid. No difficulties were presented in instances where the transaction represented a cash consideration, but

when an exchange of stock was involved, then the mystery commenced —for usually holding company stock without par value was offered in exchange for securities of the operating companies, and to determine value of the stocks offered in exchange involved some research into assets, earning power, and market prices.

Without recourse to the research which the situation would demand in the interests of accuracy alone, the opponents of such acquisitions have always concluded, and so argued, that in most cases the prices paid were too high. Of course, prices paid often were far higher than book value seemed to warrant. But a study of the reasons leading up to the purchase is essential in order to arrive at a fair picture of the reasonable worth of the operating company. There have been several acquisitions in which the unit purchased represented a necessary link in development of a system, and was thus worth a high price to the holding or purchasing company. On occasion, too, several holding companies have been bidders for a single property and the competitive bidding had the effect of raising the purchase price beyond normal market value.

In weighing the objections to prices paid it is well to remember that the individual operating companies had been profitable (highly so, for the most part), and stockholders demanded high prices for their stock. Moreover, most of the acquisitions of recent years took place in a period when prices generally were inflated and general business appeared to know no bounds. It is apparent that the holding groups, in common with most other groups, believed that greater business was in the offing, which would justify the prices they paid.

Naturally, purchases at inflated prices contain elements of danger to the investing public and one of the great fears in this connection is that the exchanges which ordinarily swell the number of outstanding shares without increasing the property on which they are based may lead to higher rates.

To cite an instance, Western Massachusetts Companies, in Massachusetts, has one of the simplest capital structures of any of the holding companies. The total number of shares of operating companies absorbed into this system was 293,583, with par values ranging from $25 to $100, against which there were 975,228

¶ "Some *of the more persistent critics (of the utilities) have decided that a larger number of shares in the hands of the public constitutes a pressure against state regulatory authorities to compel rates commensurate with increased capitalizations. Such argument precludes consideration of the fact that the increased capitalization is purely in structure of the holding companies and fails to consider the rate base of the operating unit. It is the operating unit that is the proper company to be regulated.*"

shares of no-par value stock issued.

Increases such as the foregoing involve little more than the principle of issuing four 25-cent pieces for a dollar bill. They do have the effect, however, of broadening the market and of adding largely to the number of people interested in the public utility industry. This had always been considered an element of advantage until lately, when critics of the industry decided that some hidden dangers lurk therein.

After all, the entire public utility agitation is based on the universal desire for lower rates. Holding companies are theoretically ignored in the fixation of rates. Rates have usually been set on the basis of a fair return on the stock of operating companies. But somehow some of the more persistent critics have decided that a larger number of shares in the hands of the public constitutes a pressure against state regulatory authorities to compel rates commensurate with increased capitalizations.

Such argument precludes consideration of the fact that the increased capitalization is purely in structure of the holding companies and fails to consider the rate base of the operating unit. It is the operating unit that is the proper company to be regulated. There is no danger to the consuming public if rates to the consumer are reasonable and earnings of the operating company fair. A discussion of rates inevitably leads to a discussion of the basis upon which they should be fixed.

ONE of the most interesting of the specific attacks against the utility industry is contained in "A Communication to the General Court" (of Massachusetts) by the Public Franchise League of that state, with reference to proposed legislation to regulate public utility holding companies. This communication was designed to show that holding companies had gained control over local units and "steadily increased dividends and other profits taken from these local companies to an incredible level"; that dividends taken from those companies had been raised in recent years until they range from 12 to 50 per cent annually.

Perhaps a poorer choice of target could not have been made than the utilities of Massachusetts, for in that state is exercised a brand of most rigid control over operating utility units—one that is a model the country over. Massachusetts is practically the home of utility regulation, and the success of the companies operating therein has been such as to warrant placing them in a different category from those of most other states.

While they have been effectively regulated, the Massachusetts companies have also been efficiently managed. Apparently the Public Franchise League would place a penalty on the companies for this efficient management. If one of the principal bones of contention of leaders of this league is high dividends, then it apparently follows that they favor operation under a policy which provides for payment in dividends of all moneys earned, in the early days of operation; a policy which does not provide for reasonable dividends in the early years and the setting aside of surplus earnings for reinvestment in plant and property, such as would make subsequently for lower rates to consumers and possibly higher divi-

Most Security Owners Do Not Know the Real Significance of Financial Statements

"THE bulk of investors do not know how to read financial statements of corporations—especially those of public utilities. As a result, these statements are 'interpreted' for them by the more liberal-minded experts in their zeal to prove their contentions by statistics issued by the companies themselves."

dends eventually to those investors who risked their funds in development of the business and were content with a modest return until the business built up, and a policy which calls for public financing or borrowing whenever expansion becomes necessary and which provides no incentive for prudent management.

When a public utility corporation has performed all its duties and by its fortunate situation, good management, or any lawful conduct has remaining a surplus of earnings, it has the right to distribute this surplus among its stockholders in dividends. As between the corporation and the public, the earnings belong to the corporation. It is entitled to the profits of the business for which it was chartered.[1]

Dividends as high as 50 per cent annually seem like a fantastic statement these days. Yet, the Public Franchise League spoke truthfully. Northampton Electric Lighting Co. has paid this rate for the past half-dozen years.

But this is only half the story. A little explanation is necessary, therefore, to appreciate the situation.

MASSACHUSETTS has long proceeded on the theory that capitalizations should be kept at a minimum and, accordingly, the practice has been to issue new capital stock at close to the current market price for the existing stock, rather than through issuance of a larger number of shares at par value. Under this Massachusetts policy, the investor has three elements represented in his investment in public utilities: par value of his stock, the premium above par, and surplus (representing earnings above dividend requirements which he has left in the business).

The most recent issuance of stock by the Northampton Electric Lighting Co. was in October, 1931, when additional shares were offered to stockholders at $600 per share; the premium was, therefore, equal to five times the par value of the stock. The offering price was determined by the directors and approved and ordered by the Massachusetts utilities commission. The company itself is small, with a capital of $176,400; its paid-in premium on its capital stock amounts

[1] Justice Hammond, Massachusetts Supreme Judicial, 1913, Fall River Gas Works *v.* Gas & E. L. Comrs. 214 Mass. 529, 102 N. E. 475.

to $295,000, while surplus at December 31st last was $247,188. On the basis of the three elements in the business—capital, premium, and surplus—the $50 dividend which so staggered the Public Franchise League, shrinks to a 12.27 per cent return, and when applied to the amount of dollars actually invested in plant and property, it diminishes further to a 10.35 per cent yield. These figures are available to the league in the annual return of the company as filed with the department of public utilities.

Of course, one of the chief arguments used by the organized opposition in reply is that surpluses were built up through exorbitant rates; that, therefore, rates must come down.

One of the best answers to such charges is contained in the figures above, which indicate that while present rates produce approximately 10 per cent return on the amount actually invested in the plant, the company has one of the lowest domestic rates in the state—a top lighting charge of 6 cents per kilowatt hour, which drops to 5 cents after the initial block of only 10 kilowatt hours has been consumed.

THE same critic has indicated that Worcester Electric Light Co. paid dividends of 64 per cent in 1930 and 32 per cent in 1931. But the special circumstances surrounding these dividends were carefully avoided.

The actual facts are illuminating.

On May 1, 1929 (the date when the company was acquired by New England Power Association) surplus cash to the amount of $1,216,413 had been accumulated. This cash, comprising part of the assets acquired at the time, had been earned during previous years under former ownership when higher rates had been in effect. A special dividend was declared in 1930 as a special distribution of this cash accumulated from net earnings prior to effective date of the present 5-cent rate. The implication that the company declared the large dividends mentioned as a result of excessive charges to consumers during those twenty-four months is misleading and unfair. Directors of the company felt they were justified in declaring such a dividend; the highest court of the state had held that surplus of a company belongs to its stockholders. The stockholder in this case was the New England Power Association. In that 1930 year the association was engaged in important construction work which it was pushing vigorously in response to President Hoover's appeal to all large industries for such work to stem the tide of depression. In declaring this dividend, directors of the Worcester Company merely made available to the owner of the stock money which was used in support of the President's urgent appeal and to develop power facilities which are now supplying abundant and adequate power so necessary and vital to the industries of New England.

To determine whether or not the regular dividends paid by the company were fair, it is necessary to establish value of the property. Actual cost as shown by the books was $9,829,202 as of December 31, 1931. Value set by Massachusetts tax authorities in determining taxes for 1931 was $104 per share, or $9,984,000. The value placed by special

¶ "THE *Insull group had never adequately established before the public that its set-up was really that of an investment organization rather than strictly utility operation. And its critics have not yet advised their public that not a single rate has been increased or a single electric light shut off as a result of the Insull receivership.*"

master of the United States district court in the company's rate case as of December 31, 1927, was $15,523,000, while additions since then amounted to $2,800,000, or a total of $18,322,000 on basis of the master's report. The department of public utilities on June 3, 1927, found fair value of the property for rate-making purposes to be approximately $10,000,000, which subsequent improvements bring to slightly under $13,000,000.

The 1930 dividend of $576,000 from that year's operations is 4.4 per cent on $13,000,000 or 5.8 per cent on $9,984,000. The dividend of $768,000 in 1931 from that year's operations is equivalent to 5.9 per cent on $13,000,000 or 7.7 per cent on $9,984,000. The special master's calculation, indicating value in excess of $18,000,000 would, of course, indicate a much smaller return.

Ignoring such vital elements, critics of the utilities have assailed the "outrageous exploitation of the public," based on the amount of dividends paid. As a matter of fact, it is the demoralizing effect of political influence and the dangers of popular agitation against the utilities that comprise the most serious risk confronting the public, the ratepayer, and the investor in public utility securities.

MANY utilities have found it necessary to continue expansion of their plants. Four of the operating companies in Massachusetts did some new financing during 1931, through the issuance of additional capital stock, for the purpose of retiring indebtedness incurred in making additions and extensions to plants. This new stock was offered to stockholders of the respective companies at par, plus premium.

The year 1931 ranks second only to 1932 as one of the most difficult in recent history, so far as concerns the problems of new financing. The security markets trended lower almost daily. The events and their causes during that period are too recent to require recital here. Banks were calling their loans and were extremely loath to grant extensions to maturing time notes. It was essential, therefore, that the companies retire indebtedness as rapidly as possible. It does not take much imagination to appreciate what could have happened if the investors in public utility issues did not come forward and subscribe for their proportionate allotments of the new offerings and thereby provide the funds for retirement of outstanding indebtedness.

In only one instance was the stock of the Massachusetts companies referred to offered at a price less than three times its par value—prices approved and "ordered" by the department of public utilities. The premium

paid in thus became, practically, part of the par value, upon which the investor is entitled to a return. A dividend of 10 per cent looks generous when measured against par value, but that same dividend on an investment of three times par value shrinks to 3.33 per cent.

How would the utilities of Massachusetts, or the rest of the country, have fared in their 1931 financial programs if the investor could see a return of only 3.33 per cent on his investment? Even the staggering dividend of 50 per cent paid by the Northampton Electric Lighting Co. diminishes to an 8.33 per cent return on the offering price approved by the utilities commission.

"EXCESSIVE dividends can only be paid if earnings are excessive, and excessive earnings come only from excessive rates."

Thus, speak the critics. But, like the Public Franchise League, they sometimes forget to state that the dividends are high, in some instances, on the capital stock only. They discount the advancement in the electrical art, the benefits of efficient plant management, and the special circumstances which make for comparatively high dividends; they discount the Massachusetts premuim law and the effects on the ability of the industry to obtain new capital for expansion, were the return to stockholders to be based solely on par value of the stock. The implication is that the operating companies are charging exorbitant rates in order to maintain high dividends. The list of offenders in this respect, as catalogued by the Public Franchise League, comprises those companies with the lowest residential lighting rates in the state.

How many times have utility critics indicated the "absurdity of permitting gas and electric companies to have a monopoly of the right to use the public streets for distribution of service" while "cities and towns are denied the right to use their own streets to serve their own citizens at fair rates?" How many times the implication that the foregoing involves the danger that the utilities will claim perpetual rights in the public ways with which the municipalities cannot interfere? These charges are about as weighty as the others, for it is a simple fact of law that there can be no adverse possession against a municipality.

Critics of the public utilities would destroy the system of regulated monopoly of utilities when the rate does not suit them, and would have the municipalities construct plants and enter into competition. This purpose should interest tax associations, already striving valiantly to bring a halt to municipal expenditures, construction, and in consequence the heavy burden of municipal taxation.

The Public Franchise League is by no means the worst offender in its methods of attacking the utilities, but as it has given its communication wide distribution, it has invited the presentation of the rate picture as a whole.

¶ "THE TAMING OF THE TAXICAB," *a comprehensive summary of the regulatory legislation in the various states which have been confronted with the problem of placing this troublesome carrier under proper control, will be published in a coming number of this magazine.*

What Others Think

The Destructive Motive behind Utility Taxation Projects

JOHN Stuart Mill, in a scholarly essay on the theory of taxation, tells us of the four general purposes of taxation:

1. To raise revenue to defray the cost of legitimate governmental activities, such as police and fire protection, schools, courts, highways, and so forth.

2. To effect some social policy, such as the redistribution of wealth through high inheritance taxes and income taxes (which increase in proportion to the amount of earnings).

3. To destroy some commercial traffic or industry, the existence of which is not desired by the political authorities. Prohibitive tariffs on certain imports is an example of this—the motive being to destroy (rather than to receive revenue from) the business of importing certain foreign commodities to compete with domestic industry.

4. To punish an individual, a class, or an industry for acts in a manner other than by criminal prosecution. This is not the same as a court "fine" which *is* a form of criminal prosecution. We do not have an indisputable example of "punitive" taxation in this country, although history of other countries provide numerous examples, such as the medieval tax on Jews in Spain, the pre-Boxer Chinese tax on "white foreigners," and as the Irish claim, the land rental taxes imposed upon them by the British government.

WITH the first form of taxation above mentioned, there is no argument.

With the second form of taxation there is very little argument, especially in these days when funds for public relief simply must be raised from those who can afford to contribute them.

But with the last two classes there are factors that merit grave consideration. The power to destroy by taxation is a dangerous power which, if unwisely used, can completely wreck what is left of our prevailing system of economy. The power to punish by taxation is a new power for America, where it has always been assumed that no man should be held to answer for any wrongdoing or suffer punishment therefor, except before a court of law and after a fair trial by jury if he so desires.

RECENT wholesale taxation of the utilities, particularly of the power utilities, raises a serious question as to whether the motives of those who have imposed such taxes have not gone beyond class one and class two, and possibly reached into class three and class four. We find that notwithstanding a normal contribution by utilities of 11 cents of each revenue dollar for local, state, and Federal taxes, tax levies aimed exclusively at utilities continue to mount. Culmination of state taxation came with the recent levy on 12 per cent of gross revenues, authorized by the South Dakota legislature against all utility companies operating in the state. The recent shift of the Federal 3 per cent tax from consumers to electric utilities enacted by the 73rd Congress means a new tax raid on utilities of twenty millions a year in addition to present tax contributions. Of course, the utilities could pass this burden on to consumers through rate increases, but the *Financial World* gives reasons why it probably will not be passed on:

"While this tax may be passed on to the consumer in the form of higher rates, it

is doubtful if many companies will avail themselves of this opportunity as it would mean defeat of a policy followed by the majority of the industry, *i. e.*, constant rate reductions to induce larger per capita consumption. In 1932 the electric light and power industry took in some 158 millions less than in 1930, reflecting largely the curtailed consumption of power by industry. Retrievement of only a modest proportion of this business which is indicated for the coming months would offset the effect of tax increases as proposed by Congress."

Executive Vice President W. C. Mullendore, of the Southern California Edison Company, told the recent convention of the Edison Electric Institute in Chicago that taxing authorities in many states of the Union take from privately financed electric utilities from 13 to 17 per cent of gross revenues, while their municipally or publicly financed competitors keep all their receipts free from taxes. Referring to the fact that such taxes not only deprive capital of its earned interest, but actually confiscate principal, Mr. Mullendore pointed out just how our utility taxes are killing the goose that lays the golden eggs:

"These taxes which stop interest and dividend payments are merely examples of taxation which designedly or otherwise result in 'capital levies.' A capital levy, whether frankly imposed for the purpose of redistributing wealth or whether imposed through ignorance of its real effect, results when the owners of real estate, manufacturing plants, and of other real and personal property are taxed beyond the earning power of that property so that the only way in which the tax bill can be met is by turning over a part of the thing itself to the tax collector, or by attempting to sell all or a part for cash with which to pay the tax bill. Most physical property is wealth only as it is in use and it cannot be taken apart and divided up among constituents of tax-levying bodies without destroying its value. That which is often attempted is the sale of the property for cash. But when there are many taxpayers attempting to sell in the same market, we find a dearth of cash-purchasers and a glutted market in which values are but a fraction of what they should be. Thus the taxpayer is deprived of great value and the state receives but little. Something of this process has been going on in more than one city and state of the United States. That it has resulted in the more equitable distribution of wealth is questionable, but that it has resulted in the destruction of enormous capital values is unquestionable. All should be able to agree that taxation having such results is not in the public interest."

Mr. Mullendore is frankly of the opinion that the motive behind this taxation policy is destruction of the privately owned electric industry. This would put the tax in "class three" of the table mentioned above. Why? Because there is a group working carefully towards state socialism that is using this tax method as a weapon to wreck the privately owned industry. Mr. Mullendore stated:

"Those of our critics who were sincere and who wished to be fair have been met more than half way but the attack from the special interest group continues. We see this group today working diligently in the halls of Congress and in our state legislatures seeking to make still further use of the weapon of taxation in the accomplishment of their aims."

MR. Mullendore's view in this regard is shared with much emphasis by a fellow official of the same company, Mr. George L. Hoxie, who, writing in the *Financial World*, charges that there is a positive and sinister motive for destruction behind the high electric tax levy. He distinguishes between this and the high taxes on cigarettes and gasoline, since all manufacturers of cigarettes and gasoline are treated alike; hence we may conclude that the only object of the government is to raise revenues which would be frustrated if the gasoline and cigarette industries were destroyed. To the contrary is the case of the power tax, according to Mr. Hoxie:

"It is the intention of Socialist propagandists that all electric consumers shall presently have the option of paying or of not paying these electric taxes.

"Municipal or state or Federal ownership and operation of electric service is a fact in many places, it is projected in many other localities, and it is the intention of a little group of partisans that such competition shall shortly become general. Each of the existing or proposed electric tax laws contains a provision that exempts 'publicly owned' enterprises and their consumers from tax payments.

"So long as electric taxes were moderate,

privately owned utilities were able to prosper even under favoritism to their competitors. Privately owned enterprises had a sufficient advantage in superior efficiency, in alert and farseeing adoption of new methods, to more than make up the differential charged against them by the exemption of government owned competition from reasonable taxation. When the tax burden paid by the private groups but not by the political group rises to ten or twenty cents out of each dollar of gross receipts, the situation approaches the impossible; it is the intention that it should be so."

Mr. Hoxie then continued his comparison with the cigarette tax. The Federal import on cigarettes is 6 cents a package. The retail price, where there is no state tax, is 10 cents a package by the carton. This means that production and distribution cost plus profit amounts to but 4 cents a package. yet there is a terrific volume and the cigarette industry goes onward, strong and healthy. Why? Because all manufacturers are treated alike.

But suppose that a city, state, or the nation started a "publicly owned" cigarette business? Mr. Hoxie describes the result:

"The rival publicly owned cigarette business would not be taxed, either on its plants, on its securities, on its income, its output, or its sales. Supporters of the new publicly owned adventure would reply to any suggestion of taxation with the same delightful logic now employed by the partisans of public ownership of electric service. 'Why should the people tax what the people own?' Private manufacturers of cigarettes, paying a Federal tax of sixty cents out of each dollar of retail gross receipts (more than that in states that impose additional state taxes), would simply be forced out of business.

"The first city to establish a municipal cigarette business is likely to set up one more 'profitable and self-liquidating publicly owned enterprise'—based upon tax exemption. Even the most näive supporter of tax-free municipal competition in the electric business should be able to see that a similar tax policy in the cigarette business would impose government ownership. . . . The little group of socialistic partisans—who are at the bottom of these proposals to throw upon privately owned utilities a burden of taxation that becomes impossible when publicly owned competitors are exempt from that burden—know these things well. Those Machiavellian propagandists head for a definite goal—destruction of a privately owned business, substitution of government-owned business. Nor does the design of these men stop at this point; there can be no doubt that the electric business is merely the first of the private businesses to be attacked upon a great scale. The conscious aim of the leaders is socialism. This is to be brought about by a 'boring from within,' with assault upon one industry at a time."

The cigarette industry would probably not thank Mr. Hoxie for suggesting to the public ownership group such an attractive melon as tax-free cigarette manufacturing. His description of the possiblities might prove very tempting to public business advocates looking for new worlds to conquer. It is a wonder they have not thought of it already.

THE justification of exempting municipal power plants from the Federal tax is summed up in the arguments of Senators favorable to such exemption as presented during a debate on the subject in the *Congressional Record* for May 11, 1933. They argue in effect that since these municipal power plants belong to the people, a tax (which is, presumably, for the people's benefit) would simply be imposed on the people themselves, plus the expense and bother of collecting it—something like a man sending himself a bill for services to himself. This argument assumes that electric power service is a public function just like highway maintenance, and who would think of taxing highway construction as a business, even if it could be done constitutionally?

This argument also assumes an approximate identity of interest between the taxpaying public and the ratepaying public. The taxpaying people should not bother to levy on the ratepaying people (of municipal plants) since they are for practical purposes one and the same people, merely considered in different aspects. Strictly speaking, of course, it is easy to show how this is not entirely true and to point out situations where the interest of the taxpaying public might even conflict with the interest of the ratepaying public, but by and large, practically every taxpayer in

The Columbus (Ohio) Dispatch

PARDON US, BUT—

Tacoma, Washington, for instance, is a ratepayer to the public power plant.

However, the politicians are not so willing to admit the converse of this proposition. They seem unwilling to let the theory work the other way—that is, to permit privately owned power plants (assuming this practical identity of interest between taxpayers and ratepayers) to reduce their taxes by giving an equal benefit by way of reduced rates to the ratepaying public. Most private power companies would gladly welcome the chance of improving public relations by cutting rates by an amount equal to their tax payments. Some, in consideration of the resulting stimulation of consumption, would probably be willing to cut their rates by twice the amount of their tax payments. As a matter of fact, a proposal of this nature has already been tried which effectively calls the bluff of those who insist the public benefit of the ratepayers is the only basis for exempting public utility plants from taxation.

It appears that the Montreal Light, Heat & Power Company has been waging a convincing fight in Quebec

against the discrimination shown by the Dominion in taxing private plants in Quebec and exempting public plants in Ontario. It pointed out that because the French province citizens elect to stay out of state socialization of their power industry as practiced by their Ontario neighbors, citizens of Quebec now have to pay (through taxes on private power operations as reflected in rates) as much as 10 per cent more in some instances than the citizens of Ontario for the upkeep of the Dominion government. The Ontario politicians replied with the usual arguments that Ontario power was operated for the people and not for profit and should not be taxed. Here the company scored a telling point.

"Very well," it said in effect, "if that is true, the Quebec people should enjoy the same benefits and so we will make this alternative proposition: (1) Tax Ontario public plants just exactly as Quebec private plants are taxed, or (2) exempt Quebec plants just as Ontario plants are exempt, and we will positively see that Quebec rates are fully reduced by a corresponding amount. Now if it's fair for Ontario, its fair for Quebec; let us do one or the other or else admit unjustifiable discrimination."

A petition to this effect was signed by thousands of Montreal citizens and presented to the Dominion government which promptly hid behind the Constitution. The Montreal *Star* answered under the editorial title "A Cunning Game":

> "In view of the fact that the Montreal Light, Heat & Power Company have during the last fifty years split and split their shares to conceal enormous profits; and considering that the company has a monopoly of the power and lighting business of this city and charges for power a rate that does not take sufficiently into consideration that they sell vastly more power than they produce and that they make the deficit out of the idle hours of their sold power, it does seem rather a cheeky thing to ask the government, in its present predicament, to abate taxes—for that is what their proposal really means, if we read it correctly."

Just how does the above argument dispose of the fact that, aside from its alleged enormous profits, the private company would be no better off under the proposed plan if it were tax exempt than if its revenues were taxed to the same extent? Instead of paying it over to the tax collector, the company would distribute among its own customers. The truth of the matter is that no one, not even the public-ownership group itself, believes in the practical identity of interest between taxpayers and ratepayers. When the company pointed this out in a letter to the *Star,* it was refused publication except in garbled form, according to a complete account of the incident in the *Dual Service* magazine. Here is clear evidence of the hypocrisy of the "identity-of-interest" argument for municipal plant tax exemption.

THERE is hope, however, that the taxpaying public (and by that is really meant the taxpaying public) is awakening to the municipal plant tax exemption graft. An editorial from the *Industrial News Review* states:

> "The decline in income from taxation and the search for new sources of governmental revenue, has caused a number of states to turn their eyes toward municipally owned utilities as potential contributors to the public treasury.
>
> "In Arkansas, it is estimated that if the municipal light and water plants were taxed on the same basis as private concerns, about $220,000 a year would be obtained. In Washington, taxation of the city-owned light and power systems in Tacoma, Seattle, and other Puget Sound cities, at the same per cent of gross revenue as is now paid by the private corporations, would produce more than $1,000,000 a year. For a great many years there have been sporadic efforts to levy taxes against governmental businesses, and it may be that the tenseness of the tax problem at present will be the deciding influence."

In Washington state, considerable progress was being reported on referendum legislation which would subject the publicly owned power plants of that state to full taxation.

THE *Electric World* apparently believes that the motive behind the

utility taxation is "punitive," which would place it in class number "four" of our list. It stated editorially:

> "Undoubtedly Congress and several state legislatures propose increased taxation on the light and power industry from a punitive viewpoint—a sort of soak-the-utilities attitude. Very little is done or has been done to show the fallacy of this attitude and the vicious effects of such taxation on national prosperity. Few legislators would agree, offhand, that they desired to crush the utilities as the railroads were crushed, yet this is what punitive taxation does. . . .
>
> "We believe utility executives, utility security holders, and local civic leaders should speak out frankly and firmly when legislators attempt to burden an industry unfairly and in a punitive mood. There has been too much silence. The utilities do not merit castigation and it is very bad policy to permit malicious persecution to be unchallenged when this involves the welfare of so many individuals and communities. Utilities should cheerfully pay their fair share of taxes, and they do so, but there is a direct responsibility upon executives and security holders to protect their interests and those of the public they serve when fair taxation turns into punitive taxation."

In other words, *The Electric World* believes that the politicians do not want to kill the utilities, but they would not mind making them suffer a while, presumably for past sins. On the subject of what should be done about it, Mr. Mullendore joins *The Electric World* in demanding that the utilities put up a big argument that will let the public know just what a raw deal they are receiving. He stated in his Chicago address:

> "I am aware that there are those within the industry who feel that it is not incumbent upon us as managers and trustees of these properties to do more than make the facts known to the legislative officials of the government. Some feel that the statement of facts to our customers will be attacked as propaganda and hence that it should not be done. Others feel that our stockholders are interested only as investors and not as owners and that they should not be disturbed. I do not agree and hence I do not attempt to state the position of the industry. But it is my personal view that our duty will not have been discharged until and unless we make known clearly and directly to those whose interests are primarily jeopardized, namely our customers and our stock and bond holders, the fact that these properties which we are managing are today being placed in serious jeopardy by discriminatory uses of governmental powers.
>
> "I believe these facts should be clearly and directly stated to our customers and to our stockholders because it is their representatives in legislative halls who are primarily responsible for this misuse of governmental powers, and it is to these customers and owners that the legislator must answer."

THERE are others, however, who believe that the utilities will just grin and bear it for reasons of policy, or for no good reason. Commenting upon some recent pointed and complaining remark on unfair taxation by President Thomas J. McCarter, of the New Jersey Public Service Company, the New York *Herald Tribune* stated:

> "With so many complaints about taxes being confiscatory, there must be some grounds for the protests voiced by utility men. The trouble is that every other industry, and individual, for that matter, has the same opinion about his own state of affairs. Any attempt to review the utility situation would bring a storm of requests for similar treatment that would complicate the picture beyond any extrication. It looks as if the utility companies will have to struggle along until the various governments do not need so much money. By that time the utilities themselves probably will be able to pay their taxes without the difficulty they now have."

—JOHN TRACY FLEMING

TAX RISE CONTINUES. Editorial. *The Financial World*. June 7, 1933.

TAXATION—THEORY AND PRACTICE. Address by W. C. Mullendore at the convention of the Edison Electric Institute in Chicago, June 5–8, 1933.

TAXING TO DESTROY. By George L. Hoxie. *The Financial World*. June 7, 1933.

CONGRESSIONAL RECORD. May 11, 1933.

DON'T GROPE FOR THE FACTS. *Dual Service*. April, 1933.

TAXING MUNICIPAL UTILITIES. *Industrial News Review*. March 20, 1933.

UTILITY TAXATION OVERDONE. Editorial. *Electric World*. June 3, 1933.

UTILITY TAXES. Editorial. New York *Herald Tribune*. June 20, 1933.

The Rising Sentiment in the Power Industry to Defend Itself

IN contrast to the electric utility's attitude of the last few years, the Chicago convention of the Edison Electric Institute gave an unmistakable impression of the proverbial turning worm. In 1927 the industry, flushed with record-breaking industrial expansion, was cocky and careless; in some unfortunate instances of note its members were ruthless in their desire to play the rôles of rugged individualists for all they were worth. The inquisitional persecutions of the late Senator Walsh of Montana put an end to such complacency and then, when the Federal Trade Commission started its relentless task of meticulously X-raying the industry, there followed a period of retreat and silence.

It is small wonder, then, that the alert critics of the utilities, aided by the economic depression, have steadily advanced until the private industry today is faced with a crisis. It is beginning to realize that there is a practical limit beyond which the meek and penitent attitude cannot be carried without danger of self-annihilation. Stung by congressional persecution, by discriminatory taxation, and by general misunderstanding, the industry, through the newly born Institute, now gives indication of becoming aroused. Perhaps Mr. Alex Dow, president of the Detroit Edison Company, struck the keynote when he said:

> "We are coming into a period in which we shall be more outspoken, as an industry and as parts of the industry. We have joined ourselves into this Institute under an agreement which makes each of us answerable in some part for the other. By mutual consent we have taken to ourselves a certain amount of disciplinary authority. That authority is not enough to have dealt with certain detrimentals of the past, nor to effect nonmembers of the Institute hereafter. It is enough to give appearance of solidarity. . . . I guess that the Institute will not have any early spectacular occasion on which to speak for the industry —such an occasion as might cause the speech to become news. If the day shall come when the Institute is thus to speak, then the speaking shall be straight talk and in no wise apologetic. There will be less than nothing to apologize for if we fulfil the purpose for which we have organized, and it will be in order for us to tell our critics what we think about them. Such talk will surely be news, according to the ruling that it is news when the man bites the dog."

Mr. Dow also added a timely warning about taking too much advice from legal counselors. The industry in the past, according to some sympathetic observers, has been bound and gagged by its own lawyers, notwithstanding the advance of a relentless and belligerent foe. Mr. Dow would have the industry strike back, if necessary, without benefit of counsel. He stated:

> "For the next year I guess that our members will do more local advertising than heretofore: that the copy will be in the common speech of the day and signed by an executive: and that when there is a lie large enough to deserve recognition, we will call it a lie. Whether we shall name the liar is a point on which we had better take advice of counsel. Don't let counsel write advertisements. Listen to good advice but don't let it cramp your style."

THE president of the Institute, Mr. George Cortelyou, effectively refuted some ancient and mischievous fallacies which the industry's enemies have been assiduously circulating against it; one of them is the typical city politician's cry that electric rates have not come down since the World War in proportion to the cost of other commodities. Mr. Cortelyou stated:

> "During the thirty-three years that have elapsed since the turn of the century there has been no general increase in domestic electric rates in this country, save in the years 1918–20, when there were slight advances due to increased costs of labor, fuel, and other materials during and following the World War. With these exceptions, every major change has been downward. Domestic electric rates now stand at 35 per cent *below* the pre-war level, while the cost of living is still about 32 per cent *above* the pre-war level. The average family pays 7 cents a day for its electric service. In

The Knoxville (Tenn.) News-Sentinel

SO WILL WE, COLONEL

what direction will 7 cents go further or buy more even in these days of low prices? Certainly there is nothing in these facts upon which to indict an industry or base a charge of excessive rates. On the contrary, I submit that an industry which, in the face of conditions that sent prices of nearly everything else shooting skyward, was able to keep its own prices pointing consistently downward has given a striking demonstration of efficiency and economy."

Another of these oft-repeated anti-electric utility statements would have us believe that electric rates have not declined during the "depression" in proportion to the decline in other commodities. On this point President Cortelyou said:

"We are told that rates have not come down in proportion to the fall in commodity prices since 1929. The reply to that is, they have not come down because they never went up. What does not go up cannot come down. Rates which are limited to yield only a small fixed return in good times obviously allow no great margin for reduction in bad times, if the industry is to remain solvent. Yet domestic rates have shown a steady decline since 1929. Naturally they have not declined in the same degree as some commodity prices—not having had the same lofty eminence from which to descend—but there have been numerous reductions, many of them substantial, amounting in the aggregate to 11 per cent, or from 6.3 cents to 5.6 cents per kilowattt hour on the average for the country as a whole; and such reductions are constantly taking place in individual cases throughout the industry. Memories of past benefits are notoriously short, however, and many people no doubt would be genuinely surprised to learn that they were paying less for their electricity than they paid before the war."

A MORE recent and challenging anti-electric utility assertion is that utility rates are too complicated and too often designed to please large consumers at the expense of the smaller and

(presumably) poorer consumer. On this point one of the industry's most astute rate experts, F. A. Newton of the Commonwealth and Southern Corporation, told the convention that the industry has too much at stake in the interest of the public, as well as its own future efficiency, to sacrifice scientific rate making on the altar of popular and ill-informed clamor. On the subject of simplified rate making, Mr. Newton said:

> "One says we should charge for electric service like the milkman charges for milk. Another says we should have prices as simple as the coal man and the grocer. If the milk man and the coal man were compelled to maintain a distributing system throughout the territory they served, if they were compelled to maintain a service connection to each house and, if they had to deliver their product at any time of the day or night and for any amount of milk or coal desired by the customer and immediately upon his demand, I wonder if the milkman and the coal man would be able to maintain their present so-called 'simple' methods of charging.
>
> "If they were subject to state regulation and if their methods of furnishing service and their methods of charging were under constant scrutiny and subject to periodic investigation upon complaint, I wonder if they would find their present methods satisfactory. If they were under legal restraint to avoid unjust discrimination, perhaps they would find it necessary to consider serious revisions in their present 'simple' practices."

On the question of the necessity for the promotional type of rate making, Mr. Newton reminds us that increased consumption of electricity is far more essential if lower rates are to be obtained than pinching rate bases, expense accounts, and return percentages. He said:

> "If I were asked to point out a distinct trend in rates today, I would say that there is a tendency towards uniformity of rate schedules for the territory served by the single company. That practice has gained much ground in recent years. It has social, economic, and political advantages, and I doubt if any company which has adopted that practice would voluntarily depart from it. I believe that the pressure brought to bear by the different communities and by the general public will compel such uniform rate schedules sooner or later.
>
> "One thing is clear, if rates for residence service are going to keep on going down and down and taxes keep on going up and up, then sales must be increased so that net revenues may be maintained or bettered. This means that the customers must be sold more lighting and more appliances. Without offering any suggestion as to how this increased lighting and how the appliances are to be sold, the unavoidable fact remains that they must be sold and the utilities must be very aggressive in this respect. In my opinion this constitutes the real problem before the electric utility industry today."

UNQUESTIONABLY the electric industry has been reborn. It has a story to tell to the public and it would do well to make haste in telling it before its enemies have succeeded in completely sealing the public's ears to anything a private electric utility might say. The power industry would do well to tell a simple story, an obvious and avowed self-serving declaration in clear and forceful terms.

If that be pointed to as "propaganda," it should invite its enemies to make the most of it. They will anyhow.

—JOHN TRACY FLEMING.

WHERE DO WE GO FROM HERE. An address by Alex Dow before the First Annual Convention of the Edison Electric Institute. Chicago, Ill. June 5–8, 1933.

THE PRESIDENT'S ADDRESS. By George B. Cortelyou, before the First Annual Convention of the Edison Electric Institute. Chicago, Ill. June 5–8, 1933.

TREND OF RATES. By F. A. Newton. An address before the First Annual Convention of the Edison Electric Institute. Chicago, Ill. June 5–8, 1933.

¶ THE EFFECT OF THE RECOVERY PROGRAM ON UTILITY SECURITIES. *Will the value of stocks and bonds of the power companies vary with the intent of Uncle Sam to enter into competition with private industry? Another pungent expression of the "Views of a Country Banker," as reported to* FREEMAN TILDEN—*in the next issue of this magazine.*

The March of Events

First Utility to Comply with New Securities Law

THE prospectus of the $3,000,000 Narragansett Electric Company first-mortgage bonds, series C, 5 per cent, due on June 1, 1958, is the first circular relating to public utility financing to supply all details in compliance with the Securities Act of 1933. It was available in New York for distribution for the first time June 28th, having arrived from Boston by airplane.

All details pertaining to the property, organization, and contracts of the company are outlined, as are the names and addresses of all officers and directors. For the year ended on June 1, 1933, the remuneration of directors and members of the executive committee aggregates $1,525, and is estimated at $1,500 for the ensuing year. Officers received $70,286 in the last year and will receive $60,000 in the ensuing period, while employees received $1,580,203, and will earn $1,500,000 in the year ending June 1, 1934.

The company's stock is owned by the Rhode Island Public Service Company, which in turn is more than 99 per cent owned by New England Power Association. The certificates of independent public accountants and of independent engineers who appraised the property are included in the prospectus. Balance sheets of the company and subsidiaries are given as of April 30, 1933, as are earnings for the twelve months ended on April 30th and for calendar years 1930 to 1932, inclusive.

Regulation of the company is described, as are the details pertaining to the current bonds. The issue was sold to the purchase group at 94.5 per cent and accrued interest, and was offered to the public at 98¼ per cent and interest, with certain concessions to dealers outlined in detail. The estimated net proceeds of $2,811,000, after expenses, are to be applied to $1,000,000 bank loans and the balance to the treasury of the company for property acquisition and other purposes. The expenses of the issue amounted to $24,000. The purchase group, headed by the First of Boston Corporation, also is described in the 18-page circular, which is signed by the president and treasurer and by ten directors, a majority of the board.

Oil Industry Seeks Utility Status

WHAT amounts to a revolution is scheduled to take place in this country's $12,000,000,000 oil industry, if General Hugh S. Johnson, administrator of the industrial control act, accepts that industry's proposed code drawn up in Chicago on June 21st. From chaotic disorganization the oil business almost overnight would become a carefully controlled public utility. An era of waste and exploitation seldom equalled in any other industry during all the years that rugged individualism enjoyed free play would be replaced by a period of planned production and distribution.

The industry was among the first to respond to the offer of government control under the terms of the industrial recovery act. Interests long at odds, whose battles have been bitter and costly, involving colossal wastage of an irreplacable natural resource, now are agreed that it is time to bring order out of chaos. They propose to make the president dictator of their industry, standing above a committee of nine, who will determine policies which then will be administered by a committee of fifty-two, representing the various elements of the vast oil business.

It was agreed that the oil industry has many characteristics of a public utility and that the period of haphazard development must be ended in the public interest.

I. C. C. Considers Switch in Control of Phone Rates

CHANGES in the system of telephone accounting to switch jurisdiction from the Interstate Commerce Commission to local state public service commissions were taken under advisement by the I. C. C. at the close of a 2-day hearing on June 15th. The hearing was called at the request of the public utilities commission of the District of Columbia and several state commissions. The state commissions told the I. C. C. that the primary purpose was to aid in regulating rates. It was said that the system advocated by the I. C. C. was an obstacle rather than an aid to rate reduction.

Peace through International Phone Service Seen

GREATER world security and a freer movement of trade between nations as a result of an approaching expansion of a world telephone service at lower rates were predicted in an address before the London Telephone Association by William H. O'Brien of

Boston, director of the telephone division of the Massachusetts Department of Public Utilities. Mr. O'Brien called the international telephone service "the great peacemaker and the most vital artery of trade and commerce."

Ontario to Furnish Free Water Heaters

IN order to increase its production load, the Ontario, Canada, hydroelectric power commission has announced its plan to furnish free electric hot-water heaters for Canadian homes, according to a Washington, D. C. dispatch of June 24th from the Department of Commerce. While not perfected in all details, the plan includes provisions whereby several municipalities will coöperate with the hydroelectric power commission in the financing and installation of water heaters in wired homes throughout the province. The commission estimates that of the 400,000 wired homes now without water heaters, at least 10 per cent will subscribe to the free water-heater plan. In this way the commission hopes to add about 32,000 horsepower to its production load of electricity.

Alabama

Shoals Uncertain As Feeder for Utility Service

J. M. BARRY, general manager of the Alabama Power Company, testified on June 21st before the Alabama commission that his company had no assurance that its contract to lease power from Muscle Shoals would be continued indefinitely. In reply to a question from the president of the commission, Hugh S. White, Mr. Barry made the following statement:

"The capacity of our transmission lines at Wilson Dam is 115,000 kilowatts but our lease is subject to be revoked with thirty days' notice and now that the Tennessee Valley Authority is in control, we have no assurance of telling what may happen there."

The testimony was brought out as Mr. Barry took the witness stand to open the second day of the commission's investigation into the reasonableness of the Alabama Power Company's rates and charges. He was followed by Thomas W. Martin, president of the company.

California

Municipal Ownership Sentiment in San Francisco

MAYOR Rossi has called on the San Francisco Public Utilities Commission to submit before the end of the month of June its list of projects to be financed under the National Industrial Recovery Act. According to the San Francisco *News* (Scripps-Howard), pressure was being brought to bear to have the list include the construction of a second municipal power house at Red Mountain Bar, the completion of the city's transmission lines from Newark in Alameda county, and the building of a step-down plant in San Francisco. Manager of Utilities Cahill had already recommended construction of the Red Mountain Bar power house, estimating that it would bring additional revenue of $300,000 a year and cost about $1,000,000. The two projects were put forth as necessary steps toward municipal distribution of Hetch Hetchy power, as required by the Raker act. The *News* editorially recalled that Congress granted San Francisco its Hetch Hetchy water rights only on the condition that the city distribute the power municipally, and declared that the act contains an explicit prohibition against selling power to a private company. The *News* expressed the opinion that the present arrangement by which municipal power has been sold to the Pacific Gas & Electric Company since 1925 has been in contravention of the spirit of the Raker act and would be abrogated by the present Secretary of Interior Harold Ickes who is known to be strongly sympathetic to municipal ownership.

Colorado

Ex-candidates Seek Gas Rate Cut

A MOVEMENT to secure a reduction in rates for natural gas in Denver took an unusual turn early in June when three unsuccessful women candidates for Denver City Council banded together to petition the mayor for lower gas rates. The Unsuccessful Candidates' Club is composed of Mrs. Thay S. Alford, Mrs. Minerva W. Rowe, and Miss Mae Smith. The petition called attention to the economic stress of the citizens of Denver. The demand from the Denver citizens for lower natural gas rates were to be considered at a conference between Mayor Begole and representatives of the Public Service Company of Colorado and the Colorado Interstate Gas Company in the mayor's office on June 22nd. A news item in the Denver *Post* for June 22nd intimated that the two companies involved were not disposed to grant any rate reductions at this time, taking the position that rate cuts are unjustified by their present net earnings.

Utilities Benefit from Tax Reduction

COLORADO tax valuations took a tumble on June 15th when the state tax commission slashed $14,000,000 from the valuations of railroads and public utility properties for the current year. The value of affected properties was assessed at $199,086,935 for 1933 as compared with $213,209,940 for 1932, a cut of 6.62 per cent. The utility corporations affected will save nearly a half million dollars in taxes this year.

This reduction, added to other reductions agreed upon by county assessors on valuations of live stock, mining property, and coal land, will lower the total valuation to close to one billion dollars for the year, it was predicted by the tax commission. The valuation last year was $1,280,563,890. The value of the railroad properties was reduced 7.45 per cent. Telephone company assessments were cut 5.81 per cent, while the other public utilities benefited by a reduction of 4.28 per cent.

District of Columbia

Commission Moves to Probe High Rents

PURSUANT to instructions contained in a resolution passed by Congress (introduced by Senator Arthur Capper [R.] of Kansas) directing it to investigate alleged high rents in the District of Columbia, the public utilities commission named James Ring, well-known in the Washington newspaper fraternity, as chief investigator in the local rent inquiry. Ring took the oath of office on June 26th at the District Supreme Court and conferred with Chairman Mason Patrick of the public utilities commission as to a policy for "adjusting complaints," authority for which is given the commission in a senate resolution. Mr. Ring assured landlords, as well as tenants, that each case will be investigated separately, and that the commission will act with justice and unbiased opinion. "If rent reductions have been made," continued Mr. Ring, "I think we should find out whether they are commensurate with reduced income of tenants. We want to find out the ratio existing between investments and rents, and so forth."

The congressional resolution came as the result of a disclosure that while prices of other commodities in Washington have been reduced very much during the period of the economic depression, Washington's rentals have been reduced comparatively little. The situation was felt to be causing acute distress, especially in view of reductions made necessary by the administration's economy policy in the wages of thousands of Federal employees residing in the city of Washington.

Florida

Accounting Demanded of "City Officials' Lobby"

THE Miami *Daily News* has editorially demanded an accounting for "services rendered" by the Florida League of Municipalities to which Miami and other cities of Florida contribute. The editorial points out that the city not only advertises in the league's house organ, the *Florida Municipal Record*, when it cannot afford to advertise in publica-

tions reaching the general public, but it "helps pay the bills of the league's lobby in Tallahassee." The *News* declared that Miami citizens have a right to judge whether this "lobby" serves the taxpayers or the jobholders. After reviewing the legislative record of the league, which included the "elimination of menaces" to municipal rights such as a bill introduced in the last legislature which would vest the control of all public utilities and transportation companies in the hands of the state railroad commission, the *News* concluded that it cost Miami taxpayers $6,550, directly or indirectly, for results that could easily have been secured without the necessity of a "lobby."

Georgia

Governor Moves to Oust State Commissioners

His many-sided battle with ousted members of the highway board at a standstill for the time being, Governor Eugene Talmadge prepared on June 24th to wade into another departmental activity. The five members of the Georgia Public Service Commission were to appear on June 26th before Governor Talmadge to show cause why they should not be removed from office, answering charges filed against them by the Atlanta Federation of Trades and the Georgia Federation of Labor. Though accused and cited as a body, the members of the commission offered separate answers to the charges of the labor organizations. The commissioners are: Chairman James A. Perry, of Atlanta; Vice Chairman Perry T. Knight, of Valdosta, and Commissioners Jule W. Felton, of Montezuma; Albert Woodruff, of Decatur, and Walter McDonald, of Augusta.

The commissioners made a categorical denial of all the twenty-two charges and specifications filed against them, although all maintained silence as late as June 25th as to what they would offer in refutation of the accusations. Governor Talmadge prepared to sit as judge and jury in the case. Under the law creating the public service commission, the governor is given the power to remove the commissioners at any time he sees fit and there is no appeal from his decision. The charges filed by the labor organizations accuse the commissioners of permitting the Georgia Power Company to charge excessive rates for electrical energy, of failing to act on labor's petition for a reduction of street car fares of Atlanta, and of permitting the power company to return its properties for rate-making purposes at three times the amount it returns the same properties for taxation. There were various other charges in the accusations filed against the commissioners. Jack C. Savage, Atlanta attorney, was in charge of the labor groups in presenting their evidence against the public service commission.

The governor still held the fort with state troopers at the capitol in his budget row with the highway board, but accepted service of papers in a Federal suit to dissolve martial rule which he declared during the course of his dispute with the highway commissioners.

Illinois

Sinnett Bill Likely to Pass

Twenty-four hours after Governor Horner put his influence behind the Sinnett Bill, which will revise the organic law for the regulation of public utilities in the state of Illinois, it survived a test in the senate which indicated that there were enough votes behind it to pass it before the assembly closes its session, which was expected sometime before July 1st.

The test of strength came on the same effort to amend the bill that was made in the committee on public utilities the preceding day following the governor's personal appeal to Democratic senators to pass the bill as a necessity for the fulfilment of campaign pledges. Only a single Democrat lined up with the Republican side.

When the test was over, proponents of the bill, led by George M. Maypole, chairman of the utilities committee, said they had enough votes to pass the bill and predicted the final roll call would show thirty or more favorable votes, only twenty-six being required for passage.

The bill, which is intended to extend the rate-making powers of the Illinois commission, particularly by permitting it to establish rates and placing on the utility companies the burden of proof that the orders are unjust, and by charging the cost of rate investi-

gations to the utilities, was amended by the change to which Governor Horner had agreed as a compromise. As originally drawn, the measure placed no limitation on the costs that might be levied against a utility, but the governor agreed to accept the Wisconsin limitation, which is one-half of 1 per cent of a company's gross revenues. The bill has already passed the Illinois house of representatives by a vote of 85 to 48.

Chicago Aldermen Lower Taxi Fares

CHICAGO was virtually assured of lower taxicab fares on June 23rd by action of the city council taxicab subcommittee which set up two alternative rate schedules at a stormy meeting. The committee also recommended that the number of taxicab licenses be reduced from 5,050 to 4,000. One of the rate schedules approved called for a charge of 20 cents for the first half mile and 10 cents for each additional half mile. The other provided for a rate of 15 cents for the first half mile and 10 cents for each additional half mile, plus a charge of 10 cents each for extra passengers. Rates which were previously in effect were 20 cents for the first quarter mile and 10 cents for each additional half mile.

Public Utilities Will Absorb Federal Tax

THE Commonwealth Edison Company and the Public Service Company of Northern Illinois announced on June 15th that they would cut the cost of electricity to domestic consumers by 3 per cent on July 1st. The companies will accomplish the reduction, they announced, by absorbing the 3 per cent Federal tax on electricity now borne by the consumer. The action conforms to the legislation recently enacted by the Federal Congress, ordering that the tax be transferred from the consumer and levied at the source. However, the utility companies' action gives the consumers the benefit of the reduction two months earlier, the congressional act having set September 1st as the date on which the transfer of the tax should become effective. The Commonwealth Edison Company and the Public Service Company of Northern Illinois previously had notified the Illinois commission that if Congress required them to pay the 3 per cent tax they would have to raise their rates.

Indiana

Commission May Return to System-wide Basis of Rate Making

AFTER fighting with ultimate success the celebrated Martinsville Case all the way up to the United States Supreme Court in order to sustain its right to base utility rates upon a rate-making area defined by the corporate limits of a city, rather than upon a so-called "system-wide" basis, there are indications that the Indiana commission will voluntarily return to the system-wide basis as being more in the interest of the general public.

Sherman Minton, public counselor attached to the public service commission, according to the Indianapolis *Times*, filed a rate reduction petition with the commission involving all properties of the Public Service Company of Indiana. This is the same company that lost the famous Martinsville Case. After the Martinsville decision which determined that rates (under the Indiana laws that then prevailed) must be on a city unit basis, the statute was changed by the 1933 legislature to permit the commission in its own discretion to approve system-wide rate making. Counselor Minton's petition was based upon the system-wide plan.

The "south system" includes 270 central and southern Indiana towns and cities. Figures set out in the petition were gathered by Mark Wolff, nationally known New York utility engineer and accountant. They charge that the company earned approximately $4,600,000 last year, representing an excess of $2,000,000 based upon an alleged fair return rate of 5½ per cent.

President John N. Shannahan of the company said that the utility was fully prepared to uphold the fairness of the prevailing rate schedule. The last Federal court ruling in the state, given at South Bend several weeks ago, held a 6½ per cent return to be reasonable. It was intimated that Chairman Perry McCart of the public service commission will also seek to attempt a rate reduction against the Indiana Bell Telephone Company, according to a statement by Governor Paul V. McNutt.

Kansas

Newspapers Hail End of Anti-merchandising Law

A NUMBER of newspaper editorials throughout the state of Kansas hailed the recent decision of the supreme court declaring unconstitutional the statute forbidding utilities to engage in merchandising activities. Two of these editorials were summarized in the Topeka *Daily State Journal* for June 16th. The Hutchinson *News* declared that the anti-merchandising act was "another of those curative pieces of legislation which not only failed its purpose but actually injured the very ones it was designed to aid." The Liberal *News* pointed out that the law accomplished "nothing but prevents legitimate concerns from selling equipment they were justly entitled to sell in every way, and robbed newspapers of a volume of business that has never been replaced." The action of the supreme court leaves Oklahoma the sole surviving state having an antimerchandising law in force.

Massachusetts

Legislature Considers Regulatory Law Changes

THE house of representatives on June 20th advanced to a third reading the bill which would give the state department of public utilities final authority as to the number of taxicab licenses to be issued in the city of Boston. Under the bill, the Boston police commissioner would be authorized to limit the number of licenses to be issued, but in the event a person is refused a license by reason of the fact that the full number of licenses has been issued, he would have the right to appeal to the public utilities department, which would be empowered, if public convenience and necessity warrants, to increase the number.

By a vote of 94 to 93, the house refused to reject the resolution for an investigation by a special commission of the rates charged by gas and electric companies throughout the state. The measure was passed to be engrossed after an amendment, giving the state commission $10,000 to carry out its work, had been adopted. The Ways and Means Committee had recommended the rejection of the resolution.

In the senate, by a roll call of 21 to 16, that body on June 22nd refused to reconsider the previous vote rejecting the bill prohibiting monthly service charges by gas and electric companies.

Missouri

Commission Plans to Speed Up Valuations

A PLAN to reduce greatly the cost and at the same time speed up public utility valuations is being considered by the state commission, according to a Jefferson City dispatch to the St. Louis *Globe Democrat*. Details of the plan, suggested by Chairman Collet have not been worked out, but it is understood the expense of appraisals, audits, and valuations would be cut approximately in half, resulting in substantial savings to patrons of public utility companies. Since under the Missouri statutes utility companies pay for the valuations and appraisals made by the commission, the savings would be passed directly to the consumer.

The plan under consideration is believed to contemplate the utility being required to furnish under oath virtually all data now obtained by commission engineers and accountants in their valuations. This information would be checked by commission engineers and accountants and their recommendations used in rate cases.

It was also learned that former chairman, Milton R. Stahl, will shortly tender to Governor Park his resignation as a member of the commission, to be effective at the pleasure of the chief executive. Commissioner Stahl, the only St. Louis member of the commission since the resignation of Commissioner Porter (effective August 1st), is considering a return to private law practice in St. Louis. He is a Republican and was appointed by Governor Caulfield. Ordinarily his term

would not expire until April 15, 1935. He was recently succeeded as chairman of the commission by John C. Collet. The St. Louis *Globe Democrat* states that both Stahl and Porter made exceptionally fine records in their work as members of the public service commission.

Municipal Ownership Urged for St. Louis Street Cars

HENRY W. Kiel, receiver for the St. Louis Public Service Company, said on June 20th that he considered municipal ownership and operation of the street car system the solution of the city's transportation problem. The receiver's declaration follows a statement made informally several days previous by Federal Judge Davis, in which the judge asserted he believes settlement of St. Louis traction difficulties could only be effected through public ownership or control. Kiel stated that he had made no overtures to the city with a view towards negotiations or conferences. He has no plan to offer, he said, and has heard no feasible proposal yet that might be acceptable to city officials and at the same time satisfactory to the bondholders of the traction company.

Riders on street cars and busses of the Public Service Company have increased in number materially since Mr. Kiel became receiver. He attributes this to a definite business pickup.

New Jersey

Board and Assembly Move for Lower Rates

ON June 16th an appropriation of $100,000 to finance an investigation into the rates of the Public Service Electric & Gas Company was asked of the legislature by the New Jersey Board of Public Utility Commissioners. On June 19th the assembly passed a joint resolution under suspension of rules directing the commission immediately to "revise, reduce, and fix" just and reasonable rates charged by utility corporations. The vote on the resolution, sponsored by Assemblyman Blank of Essex, was 41 to 7. The Newark *Evening News* stated that indications were that it would pass the senate if brought to a vote, although it was referred to the miscellaneous business committee in the senate which the *News* stated was considered as the "morgue." The resolution contained no provision, however, for the appropriation of $100,000 asked by the board. The contention was that the state is not in a position at this time to afford such a sum.

Defending the resolution from attacks by Democratic legislators, Assemblyman Blank declared it would serve notice upon the board that the latter was expected to act upon the demands of municipalities that utility charges be cut. Minority leader Rafferty said it would be more to the point to move for an investigation of the board itself and impeach the members for their failure to act without prodding. Assemblyman Pascoe stated that the raising of $100,000 for the rate investigation was up to the municipalities. In the form passed, the resolution is applicable to all utility rates and would include water as well as gas and electricity.

According to the Trenton *Times*, officials of the company threatened to contest the proposed action all along the line. In a statement attributed to Thomas N. McCarter, president of the Public Service Company, and issued over the signature of John L. O'Toole, vice president of the Public Service in charge of public relations, the utility declared that "if the request is approved and an investigation commenced, we shall be prepared to meet it." The statement pointed to satisfactory service rendered by the company, as well as the recent action of Congress imposing upon the electric industry of the country taxes that would cost the New Jersey company approximately $1,500,000 a year. The statement also intimated that the Public Service Corporation would be compelled to increase the 5-cent bus fare if a fight for lower electric rates is successful. It was pointed out that the same court had fixed 7 per cent as a "fair return" on utility corporation holdings and that the three services of the Public Service, electric, gas, and transportation, only earned 6 per cent.

According to a news item in the Newark *Star-Eagle* for June 24th, Chairman Joseph F. Autenrieth, of the state commission, issued a statement that his board would meet early in July to "decide on a definite position in the electric rate situation." Chairman Autenrieth was reported as saying that he would welcome conferences with Mayor Ellenstein of Newark and other committees of municipal officials who seek to effect a rate cut by a conference with public service officials and members of the commission.

New York

Charges against Chairman Maltbie Dismissed

M. MALDWIN Fertig, counsel to Governor Lehman, informed Frank Peer Beal, executive secretary of the Community Councils of the City of New York on June 24th that Governor Lehman "does not feel there is any need for further executive action" on complaint of the councils asking the removal of Chairman Milo R. Maltbie of the public service commission. Mr. Fertig also sent to Mr. Beal a copy of a letter which Chairman Maltbie sent to the governor on June 12th, in which he replied to the charges made in the communication of the Community Councils to the governor.

Chairman Maltbie pointed out that the net reduction in electric rates was to save the consumers about $5,500,000, but he asserted that the savings have actually amounted to over $8,000,000 a year. One of the principal complaints was that Chairman Maltbie was associated with Messrs. Hine, Goldthwaite & Mylott under the name of "Maltbie Associates." Chairman Maltbie wrote that this allegation contains no direct assertion of any impropriety, but that it was so worded as to create by innuendo the idea that something improper exists or has existed. He declared that since he took office he has had no connection with the "Maltbie Associates," except to complete certain work which had been started prior to his appointment.

The chairman went on to say that whether lower rates may be obtained through municipal ownership and operation or by municipal competition with private companies has nothing whatever to do with the work of the commission. Chairman Maltbie's letter also effectively answered all the other charges in the original complaint.

Three days before the announcement of the dismissal of charges against Chairman Maltbie, Governor Lehman indicated in a letter to Charles P. Sullivan, chief assistant district attorney of Queens county, that he had no intention of investigating the procedure of the public service commission, nor of calling a special session of the legislature to adjust utility rates in New York state. He stated:

"The investigation of rates is now being carried on. Public hearings on the subject have been held in New York city and elsewhere in the state and I have reason to believe that the matter is being pursued with diligence and expedition."

Ohio

Court Check on Commission Phone Case Sought

ACCUSING the state commission of showing an "utter lack of courage and efficiency," a petition was filed in the state supreme court on June 22nd to restrain the commission from proceeding further in a statewide investigation of telephone rates of the Ohio Bell Telephone Company. The petition was filed by Jack B. Dworken, Cleveland attorney, against the members of the state utilities commission. Dworken contended in his petition that the utilities commission had no jurisdiction to make a statewide investigation of telephone rates. He charged that the probe is a means of allowing the telephone company to continue "collecting illegal, unfair, and unreasonable rates," and contended the commission was without jurisdiction for various other reasons to hear the long-pending statewide case. The complaint accused the utilities commission of illegal practices. Again charging neglect of duty, Attorney Dworken also filed an application with Governor White for removal of the state public utilities commission.

Pennsylvania

Scranton-Spring Brook Water Case Finally Settled

THE 7-year old Scranton-Spring Brook Water Service Company rate case drew near a conclusion on June 27th with the filing of lower rates by the company for its entire area. The commission permitted the company to make the rates effective July 1st without prejudice to the rate complaint case now being concluded by the commission and also before the superior court. The new rates represent a compromise between the company and Scranton division consumers, but according to the Philadelphia *Record* are not ac-

ceptable to consumers in Spring Brook or Luzerne county division. It is understood that the company offered rates to Luzerne county consumers which were lower than those agreed to by Scranton consumers, but this overture also was rejected. Consequently, the company filed a new schedule making the Scranton compromise rates applicable to the entire area in Luzerne and Lackawanna counties.

Tennessee

Municipal Power Preferences Sought

A MOVEMENT to arouse public sentiment to insist that power from Muscle Shoals and Cove Creek Dam be distributed first to states, counties, municipalities, and nonprofit coöperative organizations was started by the formation of the Association for the Promotion of the Public Distribution of Power. The association was formed at the John Randolph Neal School of Law at Knoxville on June 22nd, with Dr. John R. Neal as chairman. He was authorized to appoint a local and a Tennessee valley committee to further the movement.

By resolution, the association voted to "advise the Tennessee Valley Authority that the association is opposed to the authority entering into any contract for the sale of electric power to any private corporation, firm, individual, or partnership until those organizations, corporations, or individuals entitled to preference by law have been supplied with electric power."

Utah

Employees Form Group to Protect Utility

As part of a general campaign by the employees including speeches and letters to clubs, societies, and other bodies, in which the street railway company lent its aid, billboard space was rented by the local street car men's union at Salt Lake City, Utah, and placed at advantageous and prominent points about the city, calling the motorists' attention to the injustice to operators of street cars, coaches, and busses, who were being deprived of their means of making a living by the practice of picking up passengers. The union committee sent to each head of a church or ward a general letter asking that a speaker of the men's committee be permitted to address the church members and put before them their side of the problem and explain to them the harm that was being done by the practice of picking up passengers of the company.

The attempt was made to secure bill-board locations at points where the practice of picking up passengers was most prevalent, such as transfer points and intersections with "Thru Stop" police traffic markers. Operators on their runs obtain numbers of autos and trucks picking up waiting patrons and address letters to some of them calling attention to the results of such practice. From "Forum" letters to the newspapers and comments of the public the endeavor seems to have been sympathetically and understandingly accepted, according to the *Transit Journal News*.

Wyoming

Higher Taxes an Alternative to Rate Cut

THE Cheyenne city council on June 12th passed on first reading an ordinance giving the Mountain States Telephone & Telegraph Company until July 1st to lower its rates or else pay $12,000 for a franchise to do business in the city. The company has been operating in the city without a franchise. As passed by the council the new ordinance levies an annual license tax of $12,000 on any firm or corporation transmitting telephone messages without a franchise. Last spring the council named a general reduction of city rates a prerequisite to granting a franchise to the Mountain States Telephone & Telegraph Company. A saving of $12,000 a year for the people, either directly through lowered telephone rates or indirectly through lowered taxation brought about by the amount paid by the company, is the object of their efforts, the city commissioners said.

The Latest Utility Rulings

Distribution Costs Considered in Cambridge Electric Rate Reduction

A REDUCTION in the rates of the Cambridge Electric Light Company which will give Cambridge residents as low a price on the electricity they use as any household customers of a private company in the United States was ordered on June 16th by the Massachusetts Department of Public Utilities. The new rate will be effective August 1st.

The order did not change the base rate of 5 cents per kilowatt hour but instead of requiring consumers to pay for current at that rate for the first 2,000 hours, the commission ordered that it be paid only for the first 75 kilowatt hours a month, with the excess charged at 2½ cents. A reduction in the Cambridge Company's rates for small power purposes was also ordered by which users would have to pay 5 cents a kilowatt hour for the first 300 hours and 2½ cents per kilowatt hour for all current used in excess of 300 hours. The company was authorized to make a demand charge on this class of service of $1.50 for each kilowatt or portion thereof. The commission made no valuation of the company's property and stated it was impossible to forecast just how much the changes would affect the company's revenue. From practical experience, however, it was believed that the reduced revenue would not affect the credit of the company. It was pointed out, however, that the company during 1932 paid out in dividends an amount equal to approximately 16 per cent upon its capital stock, plus premiums paid thereon. The dividends also amounted to 5.27 per cent of the utility's plant investment of $7,106,527.18, and to 6.58 per cent on the value of its property devoted to electric operations, as assessed by the tax assessors of Cambridge, of $5,692,100. The commission was of the opinion that in view of the very high efficiency shown by the company, the dividends could not be called excessive. It was also noted that in the years 1929, 1930, and 1931 no dividends were declared or paid by the company.

The most interesting feature of the commission's opinion, however, was the attention given to the recently discussed matter of distribution costs. The opinion pointed out that Mr. Clayton W. Pike, consulting engineer for the state Power Authority of New York, found that the per customer cost of overhead distribution of the average company from the substation amounts to $13 a year. With depreciation on overhead lines estimated at 3 per cent and taxes at 1.4 per cent (the commission thought 5 per cent and 3 per cent, respectively, would be more accurate for Massachusetts), the average distribution costs per customer would be $1.20 per month. Assuming the correctness of Mr. Pike's studies, the commission observed that a customer not returning $1.20 a month, plus the cost of current consumed, is not bearing his share of the cost of the utility's operations. For this reason the commission confined its reduction to the upper bracket of domestic consumption, although most of the Cambridge Company's customers were using less than 40 kilowatt hours a month. The opinion concluded:

> "If it were practicable to impose a minimum charge at this time we would be inclined to make the first block somewhat smaller. A minimum charge, however, during the present depression, we think would not be wise, as it might effect an increase to some who at present are in distress. With this change in the rate in effect, the

domestic customer in Cambridge will obtain his electricity at as low a price, so far as we are advised, as any domestic customer of a private company in this country."

Commissioner Webber dissented for reasons stated in his dissenting opinion in the New Bedford Case handed down June 9, 1933 (D. P. U. 4469), in which he expressed the minority opinion that there should be excluded from the utility's operating expenses disbursements made on account of managerial contracts providing for a fee of 2½ per cent on the gross revenue of the operating company. *Re Cambridge Electric Light Co.* (*D. P. U. 4478*).

Ohio Commission Reversed in Columbus Gas Case

THE Ohio Supreme Court on June 21st reversed the Ohio Public Utilities Commission and reëstablished the 48-cent natural gas rate for the city of Columbus. The high court upheld the minority decision of the commission which was written by former Commissioner John W. Bricker, now attorney general of the state. The 55-cent rate now being charged by the Columbus Gas & Fuel Company was declared invalid by the court's decision. Interpretations of the decision differ as to whether the gas company can be forced to refund the difference between the 48-cent rate and 55-cent charge it has been making since February 1, 1933. The decision did not specifically order a refund. It was estimated that the supreme court's decision would result in the 48-cent rate being reëstablished sometime in the latter part of July.

The court held that the 48-cent rate ordinance passed by the Columbus city council in 1929 was not confiscatory. The major points of the decision upon which the city scored victories were: (1) the wholesale or "Ohio river" rate was set at 17.79 cents per thousand cubic feet (as originally established by Mr. Bricker's minority opinion) instead of the 22.04-cent rate used in fixing the 55-cent retail rate by the majority of the commission; (2) the court disallowed $4,158,954 put into the valuation for amortization in the commission 55-cent rate decision; (3) the decision established the principle of demand mileage plan of allocation of property of producing and distributing companies. This means that Columbus consumers are required to pay a return only on the property used to produce and distribute gas in Columbus and will not be compelled to pay a return on gas lines going into other parts of the state, as was required to some extent by the theory of allocation used in the statewide gate rate established by the commission; (4) the commission was upheld in disallowing any separate allowance for going concern value; (5) the court adopted the minority commission opinion which contains lower allowances for taxes and general and direct overheads than the majority opinion; (6) the court also adopted a book value basis in fixing the value of gas leaseholds instead of a set figure of $25 per acre used by the majority commission opinion. This resulted in a reduction of $2,500,000 in the gas companies' joint valuation.

After distinguishing between depreciation as "reduction of worth" and amortization as "extinguishment of an existing debt or claim by means of a fund created for that purpose," the opinion commented:

> "There is no provision for amortization under the laws of Ohio. Where the life of a utility's product is uncertain, can it be intelligently and fairly amortized? We think not.
>
> "The contention that there should be an allowance by way of amortization sufficient to return the entire investment of the company to the stockholders during the period of the life of the business is untenable, as the business has no fixed life.
>
> "The stockholders of the gas company at no time had any right to anticipate that the law would, in addition to dividends, at some time hand them back their original investment."

The opinion also said of depreciation that "depreciation is an incident to valuation. In considering the item, the court takes cognizance of the fact that the trend of material and labor costs is downward." The decision was signed by Chief Justice Weygandt and Justices Day, Allen, Stephenson, and Matthias. Judge Jones wrote a dissenting opinion in which he stated that the disallowance of amortization "where a low rate is set tends to pure confiscation of property." He also termed erroneous the disallowance of delayed rentals and valuation of gas reserve leases and the use of book values rather than market values for leaseholds. He held as unsound the theory advances that a tract held in reserve may be capitalized only if and when it is being actually operated. The Columbus Case is generally regarded as having a definite bearing on a number of other natural gas rate cases in various parts of the state of Ohio. Justice Bevis, recently appointed to the bench, did not participate. Mr. Edward C. Turner, attorney for the Columbus Gas & Fuel Company, announced that the decision will be appealed to the United States Supreme Court as soon as the motion for rehearing before the Ohio Supreme Court is disposed of. *Columbus v. Columbus Gas & Fuel Co. et al.*

New Indiana Commission Hands Down First Major Rate Case

A 13 per cent emergency gas rate reduction for the city of South Bend was ordered June 19th by the Indiana Public Service Commission. South Bend is served by the Northern Indiana Public Service Company, and the reduced rates were to become effective July 1st. It was the first major rate case decided by the new commission. The reduction in revenue to the utility is expected to be about $150,000 a year. The commission retained jurisdiction asserting "a definite value of the company's property in South Bend cannot be established without further investigation." The value was tentatively fixed at $3,200,000. In connection with the investigation ordered, the commission announced that the company's entire system would be subjected to appraisal to determine whether the municipality or the system shall be the proper unit for consideration for limiting the scope of the rate-making area.

The city's application for a rate reduction was filed July 30, 1932, and a series of hearings was held thereafter. Scores of northern Indiana towns obtaining gas, water, and electricity from the company were regarded as likely to be affected eventually by the appraisal. The new schedule, while providing reductions in all classes of rates, left the monthly minimum rate of $1 undisturbed. *Re Northern Indiana Public Service Co.*

Gasoline and Oil Not a Public Utility

RECENT attempts of the legislature of Montana to declare that the sale of petroleum products constitutes a public utility and to fix the price of gasoline and oil have been declared unconstitutional by a decision of the Montana Supreme Court, according to the *United States Weekly Law Journal* for June 27th. Relying upon decisions of the Supreme Court of the United States involving the attempted regulation of certain businesses as being businesses "affected with a public interest," the Montana court held that the business of selling petroleum products was not within the classification of this particular phrase.

The phrase "affected with a public interest" may be expected to appear frequently in opinions during the next

year or two in cases involving recent state and national legislation in the economic field, according to the *Journal*. It is possible that any decision as to the constitutionality of the National Industrial Recovery Act will rest upon the determination of whether the regulation of industry thereunder is the regulation of "business affected with a public interest." The Supreme Court may find it necessary, to uphold the validity of the statute, either to distinguish closely or to overrule prior decisions beginning with Munn *v.* Illinois, decided back in 1877 and extending to the more recent Oklahoma Ice Case. The Montana law in question made gasoline a public utility and forbid discrimination in prices paid. The complaint, brought by an oil dealer, alleged that the law was unconstitutional on a number of grounds. The statute placed the price of gasoline and the regulation of the same under the railroad commission. The plaintiff alleged that the law could not be complied with by the gasoline business without ruinous expense and raised other objections to it. The case was finally decided, however, on the question of the degree of public interest attached to the particular type of business sought to be regulated. *H. Earl Clack Co. v. Montana Railroad & Public Service Commission.*

Three Point Two Beer Held Not to Be Intoxicating

Of all places for it to arise,—apparently the first judicial decision on the question of whether or not the new 3.2 beer authorized by the 73rd Congress is non-intoxicating in fact has been determined on a question of a utility's service obligations. The decision from the court of appeals of Kentucky upheld the granting of an injunction sought by a brewer to compel a railroad to accept 3.2 per cent beer for intrastate transportation. The railroad company had resisted the brewer's demand on the ground that the beverage was intoxicating liquor and that to transport it would violate laws prohibiting the transportation of intoxicating liquors. Finding it necessary to determine the question whether beer manufactured by the brewer is intoxicating or not, the Kentucky Court of Appeals, after a consideration of the evidence, answered the proposition in the negative.

The *United States Weekly Law Journal* reports that the case may serve as the medium for a test case before the Supreme Court of the United States on the matter of the constitutionality of the national beer law. Although the use of the instant case would be an indirect test of the national legislation, since the case involved solely the Kentucky state Constitution and laws, the determination of the Supreme Court most probably would be conclusive as to the power of Congress, in the light of the prohibition of the Eighteenth Amendment against "intoxicating liquors," to permit the manufacture, transportation, and sale of beer with an alcoholic content not exceeding 3.2 per cent by weight. *Louisville & Nashville Railroad Co. v. Falls City Ice & Beverage Co., Inc.*

Commission Ban on Single Control of Competitive Utilities Upheld

An order of the public service commission of Missouri refusing to allow the Union Electric Light and Power Company to purchase 26 per cent of the capital stock of its St. Louis business rival, the Laclede Power and Light Company, was upheld by the supreme court of Missouri on June 12th. The case was appealed by the Union Company from the Cole county circuit court, which also upheld the commission. The Union Company

sought to purchase 3,330 voting trust certificates of the Laclede Company at $214.06 each, contending the purchase would be to the public interest by bringing about closer coöperation between the competitive corporations. Louis H. Egan, president of the Union Company, testified that the purchase of the voting certificates would enable his company to elect one member of Laclede's board of five.

In commenting upon this phase of the case, Commissioner Laurance M. Hyde, who wrote the opinion unanimously approved by the four judges of the supreme court, division No. 1, stated that "no man can serve two masters." The opinion said that the public service commission was "very justified" in refusing to grant the Union Company's application, adding "it is clear that appellant's theory is that absolute monopoly in the territory in which it operates is best for the public interest because it is more efficient and economical." The court agreed that this might be true in a sparsely settled area, but whether it is true in a great metropolitan center like the city of St. Louis was said to be another matter.

It was pointed out that the profits of the Laclede Company have been used to build a distribution system paralleling that of the Union Company which is not in accord with the economic theory of the Union Company's officers, nor in accord with their intention to acquire and consolidate it with their own. It was also pointed out that three fourths of the stock of the Laclede Company was owned by a single owner and that no negotiations have been made for the acquisition of such stock. Accordingly the transfer of the 26 per cent control sought to be acquired would give the appellant no more actual control over the Laclede Company than it already had. The Union Company's president said the purchase would be "an entering wedge to obtaining control." The court held that it was for the commission to determine whether the acquisition of such control would be in the interest of the public. The opinion stated that the Union Company's avowed purpose to place its own president upon the board of directors of the Laclede Company, where he would be in a position to obtain its confidential information and business secrets, justified the commission's belief that inefficiency and disorder would result in a situation adverse to the interest of the public. The burden of showing that the public service commission's order is unreasonable was held to be upon the Union Electric Light & Power Company. *State ex rel. Union Electric Light & Power Co. v. Missouri Public Service Commission.*

Other Important Rulings

Reductions in residential electric rates in about 250 municipalities and communities served by the Tennessee Electric Power Company, including Chattanooga and Nashville, were ordered on June 2nd by the state railroad and utilities commission. It also directed cuts in commercial rates throughout the territory except in the two cities. About 90,000 consumers will be affected for a total annual saving of between $330,000 and $340,000 or about 12 per cent of the company's annual revenue from these classes of business, according to an estimate of Commissioner Porter. He said approximately $150,000 a year would be cut off bills of residential consumers in Nashville and Chattanooga. Under the order, residential schedules will be uniform throughout the system, regardless of whether in cities, towns, or rural districts. The new schedules were to go into effect immediately so as to be reflected in bills rendered July 1, 1933. *Re Tennessee Electric Power Co.*

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports.*